Para [illegible]

M E M O R A N D U M

BD|IN|PR-01

TO: File

FROM: William A. Hamilton

SUBJECT: AMENDMENTS TO TISOFT'S ARTICLES OF INCORPORATION SUGGEST A NEW MAJORITY STOCKHOLDER WHOSE ACQUISITION OF THE MAJORITY OF TISOFT'S COMMON STOCK WOULD HAVE RESULTED FROM TISOFT'S RECEIPT OF OVER $100 MILLION IN NEW CONTRACTS FROM THE DEPARTMENT OF JUSTICE IN JANUARY 1986 AND JUNE 1989.

DATE: October 2, 1989

Tisoft, Inc., amended its Articles of Incorporation twice since its foundation as a Virginia corporation in February 1980, by Patrick A. Gallagher and C. Judge.

The first amendment occurred in January 1986, when Gallagher was the owner of 100% of Tisoft's common stock. (See Exhibit A).

The January 1986 amendment restructured Tisoft's common stock into two classes. Gallagher traded his outstanding common stock in for 100% of the new Class B common stock (100,200 shares). Tisoft simultaneously authorized the issuance of 125,000 shares of the new Class A common.

Gallagher, therefore, restructured Tisoft in such a way that he would own only 44% of the common stock once the Class A 125,000 shares were issued (56%), instead of the 100% ownership he had at the time of the January 1986 restructuring.

The split of ownership between Class A and Class B into such specific percentages, 56% to 44%, and the associated details regarding the differences in voting rights, dividend rights and liquidation rights of the two classes, implies clearly that the restructuring was based on a negotiated agreement between Gallagher and the party or parties who were to acquire the Class A shares. Examples of the kinds of arrangements that imply the result of negotiations are as follows:

- The owner of the Class B shares, Gallagher, is entitled to the first $100,200 in Tisoft

...ividends each year, before the Class A owner(s) can begin to receive any dividends. Once Gallagher's Class B receives its $100,200 in dividends, Class A receives 56 cents of every additional dollar of dividends paid that year. Gallagher's Class B receives the balance of 44 cents of each such additional dividend dollar. This arrangement implies an agreement between Class B and the Class A owner(s) that Gallagher had built Tisoft by January 1986 to the point where he could reasonably expect to receive $100,000 a year in dividends; and that the Class A owner(s) would be increasing Tisoft's revenues and profits at a magnitude sufficient to cause the Class A owner(s) not to worry about paying Gallagher the first $100,000 in dividends each year. The fact that the Class A owner(s) would obtain 56% of the dividends flowing from these added revenues and profits also suggests an agreement that Class A owner(s) will be more responsible for the added revenues and profits than Gallagher.

- If Tisoft were liquidated, once the new Class A stockholder had acquired the 125,000 shares of Class A stock, the Class B stockholder, Gallagher, would be entitled to the first $3 million in the liquidated value of the assets before the new Class A owner(s) could begin to receive the Class A's 56% share of any remaining liquidated value. This implies an agreement between Gallagher and the future Class A owner(s) that, by January 1986, Gallagher had been responsible for whatever value Tisoft had by then developed, and that if Gallagher simply liquidated Tisoft in January 1986, he could look forward to receiving at least $3 million.

According to Dun and Bradstreet, Tisoft is a federal systems integrator and 90% of its revenues come from systems integration contracts with the federal government.

Assuming the validity of the inference that the 56/44% split between the new Class A owner(s) and Gallagher reflected the expectation that the new Class A owner(s) would bring substantial added revenues to Tisoft following the January 1986 amendment, it would be reasonable to expect the new Class A owner(s) to bring significant new federal systems integration contracts to Tisoft.

...ct, Tisoft received a $30 million systems integration ... with the U.S. Department of Justice in January 1986, the month when Tisoft amended its Articles the first time.

The second amendment to Tisoft's Articles of Incorporation occurred on March 31, 1989. (See Exhibit B). According to this amendment, Tisoft had not yet issued any of the Class A shares, and Gallagher was still the sole Class B stockholder. The March 31, 1989 amendment clearly implied that Tisoft still intended to issue the Class A stock because the amendment was designed to compensate the future Class A owner(s) for a particular type of material change that might have occurred since the date of the January 1986 restructuring of Tisoft into two classes of common stock.

The gist of the March 1986 amendment is that any dividends paid Gallagher during the interval between the January 1986 restructuring of Tisoft into two classes, and the unspecified future date when Tisoft actually issues the Class A stock, are to be denominated as "Extraordinary" dividends, and subtracted from the amount of money that Gallagher and the future Class A owner(s) had apparently agreed, in January 1986, that Gallagher would be entitled to receive in the event of a Tisoft liquidation.

One inference from the March 31, 1989 amendment is that when Gallagher and the future Class A owner(s) agreed to the January 1986 restructuring of Tisoft, they did not envision that the issuance of the Class A stock would be so delayed that Tisoft would have been in a position to pay several years of annual dividends without the future Class A owner(s) being able to participate in those dividends. A second inference is that the future Class A owner(s) would have viewed as an unwarranted "windfall" any dividends paid to Gallagher alone during 1986, 1987 and 1988 as a result of the unexpected delay in Tisoft's issuance of the Class A stock.

According to Dun and Bradstreet, Tisoft paid no dividends in 1986 but paid $400,500 in dividends in 1987 and $1,833,000 in dividends in 1988. If the Class A owner(s) had been in place by the time of the 1987 dividend, Gallagher would have received only about $232,000 instead of $400,500 in dividends in 1987; and Gallagher would have received only about $862,520 in dividends in 1988 instead of $1,833,000. The implication is that the delay in the issuance of the Class A stock deprived the Class A owner(s) of about $1.2 million in dividends that would have been paid to the Class A owner(s) during those two years had there not been such a long delay in the actual issuance of the Class A stock.

Since Gallagher was still the 100% owner of Tisoft at the time of the March 31, 1989 amendment, Gallagher apparently saw fit to voluntarily deduct the full $2.2 million in "extraordinary" dividends paid to him in 1987 and 1988 from the $3 million that

.wise be owed to him if Tisoft were to be liquidated at
- after Tisoft issued the Class A stock.

About two months after this second amendment, Tisoft won the .argest systems integration contract in the history of the Department of Justice, a contract for $76 million under the Uniform Office Automation and Case Management Project, code-named Project Eagle. The value of this eight-year contract could rise to $212 million if the Department of Justice exercises options in the contract. The General Services Administration granted the Department of Justice a $212 million delegation of procurement authority for Project Eagle.

If the future Class A owner(s) helped to deliver the Project Eagle contract to Tisoft, there are reasonable inferences that could be drawn: (1) that the issuance of the new majority ownership of Tisoft was conditioned upon the new Class A owner(s) steering the Project Eagle contract to Tisoft; (2) that the long interval of about three years between the Justice Department's issuance of the Project Eagle Request for proposals in May 1986, and the award of the Project Eagle contract to Tisoft on June 7, 1989 was a far more protracted period that originally envisioned by Gallagher and the future Class A owner(s) when they apparently negotiated the restructuring of Tisoft in January 1986; and (3) the future Class A owner(s), Tisoft and the Justice Department must have known by March 1989 that Tisoft would receive the Project Eagle contract.

There is some evidence, in fact, that both Tisoft and the Department of Justice knew by March 1989 that Tisoft would receive the Project Eagle contract.

According to an informant, Tisoft, Prime Computer, Falcon Systems and Systems Management American, the four finalists in the Project Eagle procurement, had all been certified by the Department of Justice by February 1989 vis-a-vis their computer hardware and software offerings meeting the technical requirements of Project Eagle. This left only the BAFO (Best and Final Offers) which were due to be submitted by each of the four fully qualified finalists in early May 1989.

On March 2, 1989, however, the Department of Justice applied to the General Services Administration for an additional delegation of procurement authority for computing resources in support of the U.S. Attorney's Offices nationwide. GSA, in fact, granted the additional procurement authority on March 25, 1989, just six days before Tisoft filed the second amendment. (See Exhibit C).

The new delegation of procurement authority was to enable the Justice Department to purchase new Prime Computers for the 42 largest U.S. Attorneys Offices in order to run the PROMIS case management software. DOJ announced plans for this procurement in the Commerce Business Daily on June 20, 1989, 13 days after it

ward of Project Eagle to Tisoft. This implies that 1989, DOJ knew that it would not be selecting Prime Inc., for Project Eagle and would, therefore, have to for a separate purchase from Prime of new computers to e the aging Prime computers upon which PROMIS has been ating in the 42 largest U.S. Attorneys Offices. Since the BAFO ds were not even due until early May, this would suggest that DOJ had made its Project Eagle decision by March 2, 1989, without waiting for the submission by the four bidders.

There is other evidence consistent with the inference that the Department of Justice had decided to award Project Eagle to Tisoft, notwithstanding what the Best and Final Offers might be.

For example, upon information and belief, the Department of Justice awarded the Project Eagle contract to Tisoft, Inc., on June 7, 1989 even though Tisoft's bid was the highest bid and was $28 million higher than the lowest bid submitted by Falcon Systems. During the course of protests by the unsuccessful finalists before the General Services Administration Board of Contracts Appeals (GSBCA), information reportedly came to light that the Department of Justice had based its decision to go with Tisoft largely on the incorrect premise that Tisoft would be employing UNISYS as the third part hardware maintenance subcontractor on the Project Eagle contract. The Department of Justice neither challenged the evidence nor reconsidered the decision to award the contract to Tisoft. Instead, upon information and belief, the Department of Justice bought the silence of the three unsuccessful bidders by settling their protest cases for about $2 million in the aggregate.

One other item to support the inference that Tisoft knew by March 1989 that it would receive the Project Eagle contract is the allegation from an informant that Patrick Gallagher, Chairman of Tisoft, or John Oakes, President of Tisoft, boasted, in early March 1989, to Dennis Young, then President of Falcon Systems, that Tisoft, Inc., already had the Project Eagle contract "in the bag."

EXHIBIT A

ARTICLES OF RESTATEMENT

TISOFT, INC.

These Articles of Restatement are made pursuant to Section 13.1-711 of the Virginia Stock Corporation Act.

The name of the corporation is Tisoft, Inc. (the "Corporation").

(1) The Restated Articles of Incorporation of the Corporation contain an amendment requiring shareholder approval. The Board of Directors and sole shareholder of the Corporation have adopted an amendment and restatement of the Corporation's Articles of Incorporation. A copy of the Corporation's Restated Articles of Incorporation is attached hereto as Appendix A.

(2) The amendment and restatement of the Corporation's Articles of Incorporation includes the exchange of the 210 outstanding shares of $1.00 par value stock for 100,200 shares of Class B Common Stock, $.01 par value. Pursuant to this exchange, $792 was paid into the stated capital of the Corporation, resulting in $1002 of stated capital. In addition, the Restated Articles of Incorporation authorize the issuance of 125,000 shares of Class A Common Stock, $.01 par value.

(3) In accordance with the Virginia Stock Corporation Act, by a unanimous consent of the Board of Directors dated January X, 1986, the Board of Directors found the amendment and restatement of the Corporation's Articles of Incorporation to be in the best interests of the Corporation and directed that the amendment and restatement be submitted to a vote at a meeting of the sole shareholder.

At a special meeting of the sole shareholder held on January X, 1986, the Shareholder adopted the amendment and restatement of the Corporation's Articles of Incorporation. All 210 shares of common stock outstanding and entitled to vote were voted for the amendment and restatement of the Corporation's Articles of Incorporation. The sole shareholder waived notice of the meeting pursuant to Section 13.1-659 of the Virginia Stock Corporation Act.

IN WITNESS WHEREOF, Tlsoft, Inc. has caused these Articles of Restatement to be signed and attested by its duly authorized officers this 21st day of January, 1986.

Tlsoft, Inc.

Patrick R Gallagher
Patrick R Gallagher
President

Linda C. Gallagher
Linda C. Gallagher
Secretary

37588

EXHIBIT A

RESTATED ARTICLES OF INCORPORATION

OF

TIsoft, Inc.

TIsoft, Inc., a corporation organized and existing under the Virginia Stock Corporation Act (the "Corporation"), does hereby certify that:

1. The name of the Corporation is TIsoft, Inc.;

2. The Corporation's original Articles of Incorporation were filed with the State Corporation Commission of Virginia on February 25, 1980; and

3. The restatement of the Corporation's Articles of Incorporation set forth in the following resolution approved by the Corporation's board of directors and stockholders restates and integrates and further amends such Articles of Incorporation and was duly adopted in accordance with the provisions of the Virginia Stock Corporation Act.

"RESOLVED, that the Corporation's Articles of Incorporation be amended and restated in their entirety to read as follows:

1. The name of the Corporation is "TIsoft, Inc."

2. The purposes for which the Corporation is organized are:

(A) to market computer systems and

(B) to engage in any lawful business and to promote or carry on any lawful object or purpose anywhere.

3. The total number of shares which the Corporation shall have authority to issue is 225,200, consisting of 125,000 shares of Class A Common Stock, par value $.01 per share (the "Class A Common Stock"), and 100,200 shares of Class B Common Stock, par value $.01 per share (the "Class B Common Stock").

The relative rights, preferences and limitations of the shares of the Class A Common Stock and the Class B Common Stock are as follows:

(A) Dividends. The holders of the Class A Common Stock and the holders of the Class B Common Stock shall be entitled to receive dividends in cash or property, but only as and when declared by the Board of Directors and only out of funds legally available for the payment of dividends.

No dividend on the Class A Common Stock may be paid or set aside for payment before an annual dividend of one dollar twenty cents ($1.20) is paid or set apart for payment on each share of Class B Common Stock. When such dividend has been paid or set aside for payment on the Class B Common Stock, such further dividends as may be determined by the Board of Directors may be declared and paid out of the remaining funds of the Corporation legally available for the payment of dividends, and if such further dividends are paid, the holders of the Class A Common Stock and the holders of the Class B Common Stock (treated as a single class) shall share equally, share for share, in such dividends.

Dividends on the Class A Common Stock and dividends on the Class B Common Stock shall not be cumulative, so that if a dividend is not declared and paid by the Board of Directors for a year, then the holders of the Class A Common Stock and the holders of the Class B Common Stock shall thereafter have no rights with respect to dividends for such year.

(B) Liquidation or Dissolution Rights. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Class B Common Stock shall be entitled to receive in cash out of the assets of the Corporation, before any distribution or payment shall be made to the holders of the Class A Common Stock, the amount of thirty dollars ($30.00) per share. When this distribution or payment has been made to the holders of Class B Common Stock, the holders of the Class A Common Stock and the holders of the Class B Common Stock (treated as a single class) shall share equally, share for share, the remaining assets of the Corporation available for distribution. If, however, the assets available for distribution are insufficient to pay all holders of Class B Common Stock the amount of thirty dollars ($30.00) per share, then the Corporation shall, in lieu of making such payments in full to the holders of the Class B Common Stock, make payments to the holders of the Class B Common Stock of an aggregate

amount equal to the assets so available, and shall make such payments to such holders equally, share for share.

For the purposes of this Paragraph (B), a consolidation or merger of the Corporation with or into, or sale of substantially all the assets of the Corporation to, any other corporation shall not be deemed to constitute a liquidation, dissolution or winding up of the Corporation, but any reorganization of the Corporation required by any court or administrative body in order to comply with any provision of law shall be deemed to be an involuntary liquidation, dissolution or winding up of the Corporation unless the preferences, qualifications, limitations, restrictions and special relative rights granted to or imposed upon the Class B Common Stock are not adversely affected by such reorganization.

(C) Adjustments. In the event of any stock split, reverse split or combination of the Class B Common Stock, or any distribution of additional shares of the Class B Common Stock, (i) the amount payable as an annual dividend on the Class B Common Stock provided by Paragraph (A) herein and (ii) the amount payable with respect to the Class B Common Stock upon the liquidation, dissolution or winding up provided by Paragraph (B) herein shall each be equitably adjusted by the Board of Directors to reflect the number of shares of Class B Common Stock outstanding immediately after such event.

(D) Voting Rights. Except as otherwise provided in this Paragraph (D), any corporate action to be taken by the corporation, which under the Virginia Stock Corporation Act would (in the absence of this Paragraph D) require the authorization or approval of a greater proportion than a majority of all votes entitled to be cast for such action to be effective and valid, shall be effective and valid if authorized or approved by at least a majority of all the votes entitled to be cast thereon, after due authorization and/or approval and/or advice of the Board of Directors as required by law. Except as otherwise provided by law or by this Paragraph (D), the holders of the Class A Common Stock and the holders of the Class B Common Stock shall be entitled to vote (as a single class) upon any matter or thing properly considered and acted upon at any meeting of stockholders; provided that each holder of Class A Common Stock shall have one (1) vote for each share of Class A Common Stock held, and each holder of Class B Common Stock shall have a number of votes for each share of Class B Common Stock held equal to the product of (i) one and two one-thousandths (1.002) multiplied by (ii) a fraction, the numerator of which is the greater of one hundred thousand (100,000) or the number of shares of Class A Common Stock outstanding, and the denominator of which is one hundred thousand two hundred (100,200). Notwithstanding the foregoing, if any amendment to the Corporation's Articles of Incorporation shall be proposed which (i) materially or adversely affects the

rights and preferences of the Class B Common Stock as provided herein, (ii) increases the authorized number of shares of Class B Common Stock or of any other class of securities of the Corporation, or (iii) creates any new class of equity securities of the Corporation ranking prior to or on a parity with the Class B Common Stock as to dividends or upon the liquidation, dissolution or winding up of the Corporation, then the affirmative vote of at least a majority of the shares of Class B Common Stock then outstanding, voting separately as a single class, shall be necessary to authorize such amendment.

(E) No Preemptive Rights. No stockholder of the Corporation shall have any preemptive rights to purchase, subscribe for or otherwise acquire any stock or other securities of the Corporation, whether now or hereinafter authorized, and any and all preemptive rights are hereby denied.'"

IN WITNESS WHEREOF, TIsoft, Inc. has caused these Articles to be signed and attested by its duly authorized officers this 1st day of January, 1986.

TIsoft, Inc.

By Patrick R. Gallagher
Patrick R. Gallagher
President

By Linda C. Gallagher
Linda C Gallagher
Secretary

3630G

1 5 9 1 5 0 4 1 5

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

RICHMOND, January 23, 1986

The accompanying articles having been delivered to the State Corporation Commission on behalf of

TISOFT, INC.

and the Commission having found that the articles comply with the requirements of law and that all required fees have been paid, it is

ORDERED that this CERTIFICATE OF AMENDMENT AND RESTATEMENT

be issued, and that this order together with the articles, be admitted to record in this office of the Commission; and that the corporation have the authority conferred on it by law in accordance with the articles, subject to the conditions and restrictions imposed by law, effective January 23, 1986 .

Upon the completion of such recordation, this order and the articles shall be forwarded for recordation in the office of the Clerk of the Circuit Court, Fairfax County .

STATE CORPORATION COMMISSION

BY Elizabeth B. Lacy
Commissioner

129

EXHIBIT B

ARTICLES OF AMENDMENT
OF TISOFT, INC.

These Articles of Amendment are made pursuant to Section 13.1-710 of the Virginia Stock Corporation Act.

(a) The name of the corporation is Tisoft, Inc. (the "Corporation").

(b) The text of the Amendment to Restated Articles of Incorporation is as follows:

In the first sentence of paragraph 3.(B) of said Restated Articles of Incorporation, strike the period and insert in place thereof: "less the per share amount of any and all extraordinary dividends previously paid to holders of Class B Common Stock. For this purpose, an extraordinary dividend is a dividend declared when no Class A Common Stock is outstanding and which is designated as an extraordinary dividend by a unanimous resolution of the Board of Directors declaring the dividend".

In the third sentence of paragraph 3.(B) of said Restated Articles of Incorporation, after the word "share", insert: "less the per share amount of any and all extraordinary dividends previously paid to holders of Class B Common Stock (for this purpose, an extraordinary dividend is a dividend declared when no Class A Common Stock is outstanding and which is designated as an extraordinary dividend by a unanimous resolution of the Board of Directors declaring the dividend),"

(c) At a special meeting of the Board of Directors held on March 31, 1989, the Board of Directors found the foregoing Amendment to be in the best interest of the Corporation and directed that the Amendment be submitted to a vote at a meeting of the shareholder.

(d) At the special meeting of the shareholder held on March 31, 1989, 100,200 shares of Class B Common Stock, which constitute all of the shares of the Corporation's stock outstanding and the number of votes entitled to be cast, were voted unanimously for the foregoing Amendment to the Restated Articles of Incorporation.

IN WITNESS WHEREOF, Tisoft, Inc. has caused these Articles of Amendment to be signed and attested by its duly authorized officers this 31st day of March, 1989.

TISOFT, INC.

Patrick R. Gallagher
Chairman and Chief Executive Officer

John A. Oakes
President and Chief Operating Officer

Kendall Hanson
Secretary

1437V

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

June 23, 1989

The State Corporation Commission has found the accompanying articles submitted on behalf of

TISOFT, INC.

to comply with the requirements of law, and confirms payment of all related fees.

Therefore, it is ORDERED that this

CERTIFICATE OF AMENDMENT

be issued and admitted to record with the articles of amendment in the Office of the Clerk of the Commission, effective June 23, 1989.

The corporation is granted the authority conferred on it by law in accordance with the articles, subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By _____
Commissioner

AMI VACPT
C1820436
89-06-08-0051

EXHIBIT C

FOIA

Clinton

MAR 25 1989

Mr. Frank A. Guglielmo
Director
Computer Technology and
  Telecommunications Staff
Justice Management Division
Washington, DC 20530

Dear Mr. Guglielmo:

This letter responds to an Agency Procurement Request (APR) of March 2, 1989, which was submitted in the optional format permitted by Federal Information Resources Management Regulation (FIRMR) 201-23.106-2. The stated requirement is for the acquisition of automated data processing resources to support the United States Attorneys offices throughout the United States.

Based on the information and certification contained in the APR, we are providing a Delegation of Procurement Authority (DPA) for the acquisition of necessary resources to satisfy this requirement. This DPA does not specifically approve or disapprove the planned acquisition strategy. It does require compliance with all applicable Federal statutes, policies, and regulations governing the acquisition, management, and utilization of ADP resources.

With respect to competition, the basic procurement objective in satisfying ADP requirements is to obtain full and open competition through the use of competitive procedures which permit all responsible sources that can satisfy the needs of the agency to submit offers. This requires an acquisition strategy, suitable to the circumstances, in which the statement of the user's requirement is set forth in the least restrictive terms possible to satisfy the needs of the agency without compromising economy or efficiency. When an agency determines that full and open competition cannot be obtained in satisfying an ADP requirement, the procurement action must be justified and approved in accordance with FIRMR Part 201-11.

...is DPA is provided on the basis of information contained in the APR. An amendment to this DPA must be obtained whenever any material change is expected from the basis on which the DPA was issued. Examples of such changes include a substantive revision in the technical requirements, a change in the acquisition strategy (including a decision to satisfy this requirement under the 8(a) provisions of the Small Business Act), a significant slippage in the planned contract award date, a change in contract life, a change in the position title or organizational identity of the official authorized to conduct the acquisition, or an increase in anticipated contract costs.

The APR indicates that the Requirements Analysis, the Analysis of Alternatives and the Performance Evaluation for Currently Installed ADP System being used to support this acquisition is more than 2 years old. It appears to us that the absence of recently updated or completed studies does not provide a sound basis for the acquisition now planned by the Department of Justice. Accordingly, prior to proceeding with this acquisition, please ensure that all regulatory study requirements are satisfied. New studies should be performed or old studies reviewed and updated to reflect current requirements.

The findings in the GO FOR 12 Program provided initial data on the time required to complete acquisitions for information resources. GSA intends to continue to review the effect that agency initiatives under the GO FOR 12 Program have on acquisition time. Accordingly, this delegation is contingent upon submission of the following information on start and completion dates for the acquisition phases identified below:

Determination of needs documentation
Analysis of alternatives
Determination of technical requirements
Solicitation preparation and issuance
Solicitation, evaluation and award

The information cited above and a completed Individual Contract Action Report (SF 279) shall be forwarded to GSA, attn: KMAS within 30 calendar days from the date of contract award.

This acquisition has been selected for a more comprehensive review by GSA. The review will focus primarily on the evaluation methodology and any use of restrictive specifications. Accordingly, this delegation is contingent upon submission of the additional information indicated in the enclosure to this letter within two weeks from the date of this delegation.

Also, since this DPA is issued in response to an APR submitted under FIRMR 201-23.106-2, it places greater responsibility on agency management to ensure that proper information is developed and reviewed before acquisition takes place.

Compliance with this delegation may be the subject of later procurement management reviews by GSA. Therefore, we urge that particular care be taken to thoroughly document the procurement files for this requirement with all solicitations, amendments, contracts, contract modifications, and supporting justification that may tend to restrict competition.

Failure to comply with the conditions established herein will render this DPA voidable. If redelegated, it carries with it all stated requirements. Nevertheless, the original requester will remain responsible for compliance.

Further reference to this matter should cite case number KMA-89-0184. Questions may be addressed to Doris Farmer at (202) 566-1566.

Sincerely,

(Signed) Donald J. Page

Donald J. Page
Director
Authorizations and Management
Reviews Division

Enclosure

INSLAW Inc
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-3600 FAX (202) 659-0755

IAR-02

E****

500
170

Enclosure

...ional Information Requirements

1. ( ) A copy of the proposed solicitation document. If the solicitation document is not available within two weeks from the date of delegation, the agency should advise GSA (KMAS) in writing when the documentation will be available. The agency should include a brief document highlighting any significant areas of restrictive specifications in the solicitation. A copy of the documentation which justifies the restrictive specifications should be forwarded to GSA.

2. ( ) Justification to support a contemplated non-competitive (sole source or specific make and model) procurement.

3. (X) Findings to support the use of compatibility limited requirements where applicable.

4. ( ) Software conversion study.

5. (X) Written notification of any vendor concerns about the procurement (e.g. vendor notification, vendor comments, agency level protest, etc.), and agency response to these concerns.

with
t for
orney
(DOJ)
ainst

t L.
and
and
duty
ivil
have

s of
ough
SLAW
ns."
J.S.
ving
cond
ant

urt
on,
to
the
an

of
ue
it
rt
ll
in

he
at
ar
AW
of

INSLAW Inc

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

BDIN/PR-02

****PRESS RELEASE***PRESS RELEASE***PRESS RELEASE****

Office: (202) 828-8600
Home: (301) 299-2870

TUESDAY, DECEMBER 26, 1989

INSLAW, Inc., citing evidence obtained from interviews with 30 witnesses, today filed suit in United States District Court for the District of Columbia seeking an Order to compel Attorney General Dick Thornburgh and the U.S. Department of Justice (DOJ) to conduct a fair and thorough investigation of malfeasance against INSLAW by officials of DOJ itself.

The suit, filed on INSLAW's behalf by Counsel Elliot L. Richardson and William E. Jackson of Milbank, Tweed, Hadley and McCloy, and co-Counsel Charles R. Work of McDermott, Will and Emery, states that the Attorney General and DOJ have a clear "duty to enforce the law as well as a duty to be fair to civil litigants," but that Attorney General Thornburgh and DOJ have "failed and refused to investigate" the malfeasance.

The malfeasance in question is the theft by DOJ officials of INSLAW's proprietary PROMIS case management software "through trickery, fraud and deceit" and the DOJ conspiracy to drive INSLAW out of business "without justification and by improper means." This malfeasance has already been found by one federal court (U.S. Bankruptcy Judge George F. Bason, Jr., in January 1988 following three weeks of trial in 1987), and recently affirmed by a second federal court on appeal (Senior U.S. District Judge William Bryant on November 22, 1989).

In February 1988, the month after the U.S. Bankruptcy Court issued its Findings of Fact, William A. and Nancy B. Hamilton, founders and principal owners of INSLAW, submitted a memorandum to DOJ's Criminal Division outlining their hypothesis for the motivation of the malfeasance and asking for the appointment of an Independent Counsel to conduct a full investigation.

The Hamiltons' hypothesis is that private sector friends of Attorney General Edwin Meese, including a former Meese colleague in Governor Ronald Reagan's California cabinet, sought to exploit their friendship with Meese to obtain a "massive sweetheart contract" for one of their companies, a contract to install INSLAW's PROMIS case management software on new computers in virtually every office of DOJ.

In May 1988, DOJ's Criminal Division informed INSLAW that the appointment of an Independent Counsel was not warranted, but that it would itself investigate aspects of the allegations. A year later, on July 18, 1989, DOJ's Criminal Division informed INSLAW that it had closed its investigation "due to lack of evidence of criminality."

As far as INSLAW has been able to determine, however, DOJ never interviewed 29 of the 30 witnesses whose testimony INSLAW has summarized in the new lawsuit. The one witness who was interviewed, a New York State Civil Court Judge, has told INSLAW that the DOJ effort to force INSLAW into liquidation in 1985 was part of a larger "conspiracy to get the INSLAW software."

Another witness cited in the INSLAW pleadings is Mr. Ronald LeGrand. While Chief Investigator of the U.S. Senate Judiciary Committee, LeGrand learned from a trusted source, whom he describes as a senior DOJ official with a title, that the Criminal Division was the nerve center of much of the malfeasance against INSLAW.

According to LeGrand's source, D. Lowell Jensen, a long time confidant of Meese, who served at DOJ successively as Assistant Attorney General for the Criminal Division, Associate Attorney General, and Deputy Attorney General, engineered the effort to drive INSLAW out of business and give DOJ's case management software business to political friends; Jensen relied upon two of the most senior officials in DOJ's Criminal Division in implementing this scheme. LeGrand's source has also alleged that "the INSLAW case is a lot dirtier for the Department of Justice than Watergate was, both in its breadth and in its depth," and that the "Justice Department has been compromised on the INSLAW case at every level."

According to LeGrand, DOJ has made no attempt to learn the identity of his source. In May 1989, INSLAW Counsel Elliot L. Richardson sent a letter (Exhibit C to the INSLAW pleadings) to Attorney General Thornburgh summarizing some of the more important evidence and leads, developed in INSLAW's own investigation, and disclosing the identity of LeGrand and the content of the information from LeGrand's trusted source.

The letter to the Attorney General drew no response. Furthermore, Mr. Richardson's request for a meeting with the Attorney General was refused.

The INSLAW lawsuit seeks a Writ of Mandamus from the U.S. District Court to compel a fair and thorough investigation under the direction of a federal prosecutor not already tainted by the INSLAW scandal, who would be required to report to the Court on both the progress and the final results of the investigation.

Anticipating DOJ objections that such a Court Order would usurp DOJ's "prosecutorial discretion," the legal memorandum, filed as part of the lawsuit, states as follows: "Where the failure to perform a prosecutorial duty is the consequence not of legitimate discretion but of discrimination, conflict of interest, obstruction of justice, or sheer neglect, the Court Order -- far from usurping an executive function -- merely requires the function to be carried out."

Illegally appropriated copies of INSLAW's PROMIS software are installed on computers in each of the 42 largest U.S. Attorney's Offices to help manage criminal prosecutions, civil litigation, and legal process debt collection work.

Meese and Jensen launched the largest procurement in DOJ history soon after Meese became Attorney General. It is known as the Uniform Office Automation and Case Management Project, and code-named Project Eagle. DOJ officials have testified that Eagle is a $200 million procurement. The price could approach one billion dollars, however, if DOJ exercises options in the procurement to extend Eagle to the nationwide offices of DOJ's semi-autonomous bureaus.

According to one of the witnesses cited in the INSLAW suit, Meese, during a meeting at the White House in early 1981, disclosed plans to have Jensen spearhead a massive DOJ procurement to install the PROMIS case management software in virtually every DOJ office including the nationwide offices of DOJ's semi-autonomous bureaus such as the Drug Enforcement Administration, the U.S. Marshal's Service, and the Immigration and Naturalization Service.

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

BD[IW]PR-03

MEMORANDUM

DATE: March 29, 1990

TO: The Record

FROM: WAH William A. Hamilton

SUBJECT: The Justice Department Failed To Develop A Security Plan For The Future Systems Being Acquired Under Project EAGLE And Does Not Know The Identity Of The Future New Owners Of The EAGLE Contractor Even Though Project EAGLE Is The Largest Computer Project In The Department's History And Will Involve Extremely Sensitive Criminal Investigation And Criminal And Civil Litigation Data

The Meese Justice Department launched the largest procurement in the history of the Department when it chartered the Uniform Office Automation and Case Management Project, code-named Project EAGLE, in December 1985.

The Thornburgh Justice Department awarded the EAGLE contract in June 1989 to a small, Northern Virginia contractor, Tisoft, Inc.

Several months later, in September 1989, the General Accounting Office (GAO) published a report entitled Justice Automation: Security Risk Analyses and Plans for Project EAGLE Not Yet Prepared.

GAO noted that although the initial contract award only covered the Criminal and Tax Divisions and the 93 U.S. Attorneys' Offices, "other litigating and non-litigating organizations will be required to either purchase EAGLE hardware and software or acquire systems that are compatible with Project EAGLE."

GAO also warned that the EAGLE systems "will contain sensitive information...including the names of defendants, witnesses, informants, and undercover law enforcement officials" but that Justice Department officials "had not intended to conduct risk analyses or prepare security plans until the systems were installed and operating."

dividends to Mr. Gallagher during these years of delay, including $400,000 in 1987, and $1.8 million in 1988.

Although the March 1986 Amendment did not offer any explanation about the "extraordinary" delay that Tisoft had experienced since its January 1986 Amendment, the delay coincided with the following events:

- In May 1986, Justice issued the RFP for Project EAGLE, the procurement which Justice Department officials later stated was modelled after the January 1986 contract with Tisoft. The EAGLE RFP stated that case management software would be installed on each EAGLE computer by the 13th month of the contract; that the case management software would account for most of the capacity of each EAGLE computer; and that Justice did not have the case management software and did not plan to have the EAGLE vendor develop it.

- That same month, a Pennsylvania-based computer services company, Systems and Computer Technology, Inc., initiated a hostile takeover bid for INSLAW by offering several million dollars in cash to INSLAW's creditors. SCT officials had planned the hostile takeover bid in separate meetings during the fall of 1985 with unidentified officials of the "Meese" Justice Department, and with Herbert A. Allen, Jr., the Chief Executive Officer of Allen and Company, the Wall Street Investment Bank. Subsequent to the fall 1985 meeting between Herbert A. Allen, Jr. and SCT, Allen and Company purchased 7.8% of SCT for about $5 million. Since at least September 1983, Allen and Company had been involved behind the scenes in the effort by Dr. Earl Brian, a long-time friend of Edwin Meese, to acquire control of the PROMIS software for contracts with the Justice Department.

- In August 1986, when INSLAW convinced the Unsecured Creditors Committee to reject the SCT hostile takeover bid, the Justice Department amended the EAGLE RFP to require that all EAGLE computers be equipped with

The security risk resulting from the failure of Justice Department officials to plan for the security of the sensitive data that will be stored in the EAGLE computers has been compounded by the planned sale of Tisoft, Inc. to unidentified new owners, and the reported decision by the Justice Department to expand the Tisoft EAGLE contract to include the FBI, the Drug Enforcement Administration, the U.S. Marshals, the Bureau of Prisons, and the Immigration and Naturalization Service.

Soon after Tisoft won the EAGLE contract award in June 1989, it began circulating an Offering Memorandum for the sale of the Company. Upon information and belief, the Offering Memorandum states that the Justice Department has already determined to exercise options to expand the EAGLE contract to all of the aforementioned semi-autonomous Justice Department bureaus, increasing the value of the contract from the June 1989 initial award amount of $76 million to a level that Tisoft reportedly describes as follows: "...conservatively, half a billion to $800 million."

Tisoft has been in the process of selling the controlling interest in the Company to unidentified parties since January 1986 when the Justice Department awarded Tisoft a $30 million office automation contract for the Civil Division. Justice has publicly pointed to the January 1986 contract as the model for the EAGLE office automation work. In January 1986, Tisoft amended its Articles of Incorporation to provide for the creation of a new Class A common stock which, once issued, would constitute 54% of the ownership of the Company; and for the exchange of 100% of the then outstanding common stock, owned by Patrick R. Gallagher, the Tisoft founder and CEO, for a new Class B common stock, representing 46% of the total common stock (the sum of the two new classes of common, Class A and Class B).

Later, on March 30, 1989, just two months before Tisoft won the EAGLE contract that Tisoft values as high as $800 million, Tisoft again amended its Articles of Incorporation. This time, Tisoft referred to the fact that an "extraordinary" delay had occurred in the issuance of the new Class A majority ownership stock since the January 1986 authorization amendment to the Articles of Incorporation. Apparently to compensate the future Class A owner or owners for the delay, Mr. Gallagher agreed in the March 30, 1989 Amendment to credit dividends paid to him during the period of delay against money that Tisoft might otherwise owe Mr. Gallagher once the Class A owner or owners are in place.

According to Dun and Bradstreet, Tisoft paid substantial

features that would make possible the installation of the PROMIS case management software, but initially dissembled in a written reply to questions from EAGLE bidders about the connection between the newly-mandated technical features and the PROMIS software. At about the same time, Deputy Attorney General Arnold Burns wrote to INSLAW offering an early and, by implication, a favorable resolution of the contract disputes that had propelled INSLAW into bankruptcy on the condition that INSLAW abandon its claim to license fees from the Justice Department's for its use of PROMIS.

- In October 1986, Deputy Attorney General Burns [1] met with a senior partner in the law firm then representing INSLAW to complain about the partner in charge of the INSLAW litigation against Justice. The following week, the firm made a decision to fire that 10-year member of the firm. By January 1987, the law firm had demanded authority from INSLAW to settle the case with Justice on terms that would have allowed Justice to use the PROMIS software without paying license fees to INSLAW. INSLAW subsequently obtained new counsel and litigated and won the case against Justice.

In June 1989, Justice awarded the EAGLE contract to Tisoft, having failed to acquire control of PROMIS either through the machinations of private sector friends of Attorney General Meese or through direct Justice Department pressure on INSLAW. Justice,

---

[1] Victor Abrunzo, formerly Assistant U.S. Trustee for the Southern District of New York, told INSLAW in December 1987 that Arnold Burns, while still in private practice in New York City, had arranged for Ken Rosen, a former colleague of Abrunzo's in the U.S. Trustee's Office, to be hired by an INSLAW creditor as soon as INSLAW filed for bankruptcy protection in February 1985 for the purpose of assisting the Justice Department in its plan to force INSLAW's liquidation. Rosen had served as an associate in the Manhattan law firm founded and headed by Burns until shortly before the INSLAW bankruptcy. Abrunzo admitted these statements in subsequent deposition testimony but claimed that he had just been kidding.

therefore, awarded the EAGLE contract without the case management software necessary to make productive use of most of the capacity of each EAGLE computer.

To ease this dilemma, Justice publicly began to portray EAGLE exclusively in terms of Uniform Office Automation, the junior of the two components of EAGLE. On March 2, 1989, Deputy Attorney General Stephen Colgate, the official responsible for Project EAGLE, testified before Congress about EAGLE. In response to a question from Congressman Early, Colgate appeared to deny any connection between Project EAGLE and Uniform Case Management. Congressman Early: "Is this departmental case management system being done through AMICUS and Project EAGLE? Mr. Colgate: "No, Sir. The AMICUS and Project EAGLE is a uniform office automation system." (Hearings before Subcommittee of House Appropriations Subcommittee on Justice, p. 637.)

Similarly, the September 1989 GAO report on EAGLE describes EAGLE as "a Department of Justice project intended to supply office automation systems to its lawyers, managers, secretaries, and other employees."

In August 1989, however, the Justice Department privately communicated in writing to the General Services Administration (GSA) about EAGLE. INSLAW recently obtained a copy of this correspondence under the Freedom of Information Act (FOIA). Justice told GSA that Justice would need to buy $4 million worth of new computers to continue running the PROMIS software in the 42 largest U.S. Attorneys' Offices because the Prime computers on which PROMIS was then installed in those offices had become obsolete. Justice once again confirmed that case management software will be installed on the EAGLE computers. Justice estimated that it will take three years to develop and install the case management software on the new EAGLE computers being acquired by the same U.S. Attorneys' Offices. As noted earlier, Justice had earlier forecasted, in the EAGLE RFP, the development and installation of the case management software by the 13th month.

The effort by Justice Department officials in 1989 to dissemble to the Congress and to GAO about EAGLE occurred in the following context:

- In January 1988, the U.S. Bankruptcy Court ruled that Justice Department officials "took, converted, stole" the PROMIS software "through trickery, fraud and deceit" and then tried to force INSLAW's liquidation "through unlawful

means and without justification."

- The Justice Department launched the largest and one of the most sensitive procurements in its history with the obvious intent of hijacking the main software needed for the EAGLE computers, i.e. the PROMIS case management software, from INSLAW.

- The Justice Department failed to develop a timely security plan to safeguard the sensitive investigative and litigative data to be stored in the EAGLE computers.

- The Justice Department failed to consider security when it awarded the EAGLE contract to a small company whose owners are in the midst of an effort to sell out.

- One of the principal private sector persons with whom Justice was apparently colluding for the purpose of acquiring the PROMIS software for Project EAGLE for use by the FBI, DEA, U.S. Marshals, U.S. Attorneys, Bureau of Prisons, the Immigration and Naturalization Service, and the seven legal divisions is Herbert A. Allen, Jr. As reported in the book Indecent Exposure by former Wall Street Journal reporter David McClintick, Herbert A. Allen, Jr. once told the New York Times: "We trade every day with hustlers, deal makers, shysters, con men...That's the way business get started. That's the way this country was built."

Epilogue

In the September 1989 report, GAO stated that Justice Department officials explained their failure to conduct a risk analysis and to develop a security plan for Project EAGLE on the basis that Justice did not know what computer systems architecture it would be acquiring until it awarded the EAGLE contract in June 1989, and resolved bidder protests about the award. GAO said that Justice officials acknowledged that the award and subsequent settlement of bidder protests had established the systems architecture for EAGLE, and had made it possible for Justice to prepare the security plan.

Upon information and belief, however, Justice has radically altered the systems architecture since GAO published its September 1989 report. Tisoft bid Data General Eclipse series mini-computers with the proprietary AOS operating system and Network Systems Corporation communications equipment.

Upon information and belief, after awarding EAGLE to Tisoft, Justice directed Tisoft to substitute Data General's Avion-series of RISC (Reduced Instruction Set Computers), AT&T's UNIX operating system, and Ethernet communications. This is a radical change in the type of computer, the type of operating system and communications, and in overall systems architecture.

Network Systems Corporation filed suit against Tisoft in U.S. District Court in Eastern Virginia for dropping Network Systems Corporation as a supplier under EAGLE. Tisoft allegedly won EAGLE, in part, based on its alliance with Network Systems Corporation.

Upon information and belief, Justice had awarded the EAGLE contract to Tisoft in June 1989 even though Tisoft was the high bidder. During the bid protests before GSBCA (General Services Board of Contract Appeals), Justice explained the decision in terms of the superior management plan and technical offering from Tisoft. Tisoft's bid was reportedly $28 million higher than the low bid by Oracle Computer Systems, which bid UNIX-based computers with Ethernet communications. The $28 million price differential was on the initial $76 million contract award alone. That is the equivalent of a $500 million price differential on an $800 million project.

Upon information and belief, Justice and/or Tisoft came forward with $2 million to settle the protests by the three unsuccessful finalists, after it was disclosed that the UNISYS Corporation had declined to accept a subcontract from Tisoft for third-party hardware maintenance and that Justice had awarded a significant point advantage to Tisfot for its superior management plan based on Tisoft's now-defunct plan to use UNISYS.

Upon information and belief, the superior rating for the technical offering was based on the software and communications architecture which Justice has since directed Tisoft to abandon in favor of the new AVION RISC computers with UNIX and Ethernet.

Finally, on January 30, 1990, the Justice Department's Land and Natural Resources Division issued a Request for Proposals for a new case management software system that can later be migrated

to the EAGLE computers. According to an official answer published by the Justice Department to questions from bidders: "The Land Division has concluded that PROMIS experience is one of the most critical factors in developing the new system." Once again, the Justice Department, in its Land Division RFP, has reverted to its original EAGLE RFP plan to develop the case management software within 12 months of contract award. This time, instead of stealing the PROMIS software, Justice appears intent on stealing the proprietary PROMIS know-how.

PROVIDED ON A BACKGROUND BASIS ONLY

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

CONFIDENTIAL

M E M O R A N D U M

BD IN/PR-04

DATE: April 10, 1990

TO: The Record

FROM: WAH William A. Hamilton and NBH Nancy B. Hamilton

RE: *Early In The Bush Administration, The Thornburgh Justice Department Awarded The Massive Project EAGLE Procurement To A Small Company On An Obvious "Sweetheart" Basis, While Disguising The True Size Of The Contract ("Conservatively, Half A Billion To $800 Million"). And Scope (Uniform Case Management), And Without Having The Case Management Software Indispensable To The Productive Use Of The EAGLE Computers.*

The Reagan White House Conceived Project EAGLE Shortly After The 1980 Elections With The Objective Of Rewarding Unidentified Political "Friends" With A "Massive Sweetheart Contract." The Reagan White House Decided That The Contract Would Be To Install The PROMIS Case Management Software On New Computers In Justice Offices Nationwide.

During The Eight Year Interval Between EAGLE's Conception And Its Delivery, The Reagan Justice Department Colluded With Certain Private Sector "Friends" To Steal The PROMIS Case Management Software.

Following several weeks of trial during 1987, the U.S. Bankruptcy Court for the District of Columbia ruled that officials of the U.S. Justice Department "took, converted, stole" the proprietary PROMIS legal case management software manufactured and marketed by INSLAW, Inc., "through trickery, fraud and deceit."

The Court also ruled that Justice officials thereafter forced INSLAW into Chapter 11 bankruptcy in February 1985 and immediately launched a covert effort to force the liquidation of INSLAW "through unlawful means and without justification."

Finally, the Court ruled that Justice officials, including former Deputy Attorney General D. Lowell Jensen, had exhibited a harmful negative bias against INSLAW but that the Department of Justice ignored the "serious questions of ethical impropriety" relating to this negative bias, even though INSLAW and its attorneys had repeatedly asked the Justice Department to investigate the problem.

On the day before Thanksgiving in 1989, Senior U.S. District Judge William B. Bryant, Jr., the former Chief Judge of the U.S.

District Court for the District of Columbia, issued a 44-page Order and Opinion affirming the Bankruptcy Judge's Findings of Fact. Judge Bryant noted in his Opinion that the evidence was "striking" that the malfeasance against INSLAW emanated from "higher echelons" of the Justice Department.

In January 1990, the Thornburgh Justice Department announced a further appeal of the INSLAW case to the U.S. Court of Appeals for the District of columbia, and also issued a Request for Proposals (RFP) for a contractor to develop a new case management software system to replace the PROMIS case management software. Justice provided no design specification for the new case management software product other than to require that the winning vendor have "at least five years experience and possess a working knowledge of PROMIS" and to state that "PROMIS experience is one of the most critical factors in developing the new system."

The January 1990 RFP also notes that the Department will own title to the new case management software and may later install it on computers acquired under Project EAGLE.

Project EAGLE is the Uniform Office Automation and Case Management Project, chartered by the Meese Justice Department in December 1985. EAGLE is the largest procurement in Justice Department history.

One month before these two actions by the Thornburgh Justice Department, INSLAW filed suit before Judge Bryant alleging that the malfeasance already found by the Bankruptcy Court and affirmed on appeal by Judge Bryant was only a small part of much greater corruption in the Justice Department involving Project EAGLE. Private sector friends of former Attorney General Meese sought to exploit their relationship with Meese in order to obtain the Project EAGLE contract, the centerpiece of which, according to INSLAW, was to be the PROMIS case management software.

The new INSLAW lawsuit, known as a Petition for a Writ of Mandamus, seeks an Order compelling Attorney General Thornburgh and the Justice Department to conduct a fair and thorough investigation of these allegations. The INSLAW lawsuit summarizes information acquired from 30 witnesses, many of whom are former or current Justice Department officials, in support of the allegations, and notes that the Justice Department failed to interview 29 of the 30 witnesses.

Plan For Massive EAGLE Procurement Devised In White House At Start Of Reagan Presidency

One of the 30 witnesses, Donald Santarelli, who served as a Presidential appointee in the Nixon Justice Department, told INSLAW of a White House meeting with Meese on May 4 or 5, 1981. Meese described to Santarelli during that meeting a Reagan Administration decision to install the PROMIS case management software on new computers in virtually every field office of the Justice Department nationwide, and to use D. Lowell Jensen to spearhead the project. In retrospect, Meese was describing Project EAGLE in considerable detail even though it was not formally chartered until four-plus years later during the first year of Meese's term as Attorney General. Jensen and Meese had served together in the Alameda County District Attorney's Office during the 1960's, and Jensen had been appointed by President Reagan as Assistant Attorney General for the Criminal Division at the start of the Reagan Administration.

Another one of the 30 witnesses, a former senior Justice career official, told INSLAW of a discussion with his superior in May or June 1981 in which the superior disclosed plans to sabotage INSLAW's business relationship with Justice on the PROMIS case management system. In apparent furtherance of this strategy, two key Justice incumbent officials on PROMIS were forced out of their jobs during the summer of 1981 and replaced with persons recruited from outside the Department of Justice. The new PROMIS Project Manager was C. Madison Brewer, a fired INSLAW employee. The new PROMIS Contracting Officer was Peter Videnieks, who until hired by Justice in September 1981 had been a contracting officer in another government department for a company controlled by one of the Reagan Administration "friends" who was an intended beneficiary of the EAGLE procurement. Later the Bankruptcy Court ruled that Brewer and Videnieks had acted so maliciously toward INSLAW that the Court permanently enjoined them from any further official role in INSLAW's business.

The Plan to Award EAGLE On A "Sweetheart" Basis To "Friends" Of The Reagan Administration

The Mandamus lawsuit quotes an unidentified Justice whistleblower who warned the staff of Senator Max Baucus in mid-1983 of a plan to award a "massive sweetheart contract to friends" of the Reagan Administration to install INSLAW's PROMIS software on new computers throughout the nationwide offices of Justice, as soon as Meese became Attorney General.

One of the 30 witnesses alleged that D. Lowell Jensen, while leading the Criminal Division, engineered a series of sham contract disputes with INSLAW in order to be able to give the Justice Department business to "friends."

The Award Of Project EAGLE By Thornburgh Justice Department On An Apparent "Sweetheart" Basis To Small Federal Contractor

In June 1989, the Thornburgh Justice Department awarded the Project EAGLE contract to Tisoft, Inc., a small Fairfax, Virginia, company, whose founder and sole owner, Patrick R. Gallagher, immediately offered the Company for sale.

During June and July 1989, all three of the unsuccessful finalists in Project EAGLE filed protests before GSBCA, the General Services Board of Contract Appeals. Tisoft won the contract even though its bid was about one-third higher than the lowest bid by a finalist. Tisoft or Justice reportedly settled the protests by paying about $2 million to the three unsuccessful finalists in exchange for their silence.[1]

---

[1] Upon information and belief, the Thornburgh Justice Department awarded Project EAGLE to Tisoft, despite Tisoft's considerably higher price, based on two considerations whose validity has been placed in serious doubt by subsequent events. One consideration was Tisoft's plan to employ UNISYS Corporation as a subcontractor to provide third-party hardware maintenance for the computers that Tisoft will be installing in Justice Department offices nationwide. During the GSBCA protest, one or more of the finalists alleged that UNISYS had declined in writing, prior to Tisoft's winning of the EAGLE contract, to serve as the maintenance subcontractor.

The other Justice Department consideration was Tisoft's allegedly superior technical proposal, a key component of which was its planned use of Network Systems Corporation as its communications subcontractor. Network systems Corporation has filed suit against Tisoft in U.S. District Court in Alexandria alleging that Tisoft dropped it from EAGLE immediately after Tisoft won EAGLE.

The Small Federal Contractor Prepares To Acquire New Owner But There Is An "Extraordinary" Delay That Corresponds To The Delay In The Award Of The EAGLE Contract

In January 1986, the month after the Meese Justice Department officially chartered Project EAGLE, Tisoft won a $30 million office automation contract with Justice, a contract that Justice officials have subsequently pointed to as the model for the office automation part of EAGLE. That same month, Tisoft amended its Articles of Incorporation to provide for its founder and CEO, Patrick R. Gallagher, to exchange his common stock, which then represented 100% of Tisoft's common stock, for a new Class B common stock, and to permit the issuance of a new Class A common stock. Once issued, the Class A stockholders would control 54% of Tisoft, and Gallagher would control only 46%.

In March 1989, just two months before Justice announced the award of EAGLE to Tisoft, Tisoft once again amended its Articles of Incorporation. The new Amendment refers to an "extraordinary" delay in issuing the new Class A stock and seeks to compensate the future Class A Stockholders for the delay. Gallagher promises in this new Amendment to credit any dividends paid to him between January 1986 and the date when the new Class A stockholders eventually acquire their stock, against certain obligations that Tisoft might owe Gallagher in the future.

Tisoft's Profits Are As Extraordinary As The Project EAGLE Delay

According to Dun and Bradstreet, Tisoft, in fact, paid Gallagher substantial dividends during this "extraordinary" delay, including dividends of $1,833,000 in 1988 alone. Tisoft's revenues that year were approximately $15 million, according to Dun and Bradstreet.

To appreciate the magnitude of such payments, it is useful to compare CEO Gallagher's compensation in 1988 with that of John Akers, the CEO of IBM, whose revenues in 1988 were $59.68 billion. IBM paid Akers $2,000,500 in total compensation, including salary, bonus and stock options. Tisoft does not publish Gallagher's salary and bonus but Tisoft clearly compensated its CEO in 1988 at approximately the same level as the CEO of IBM.

Extraordinary Delay In Award Of Project EAGLE Coincides With Effort By Meese Justice Department And Reagan Administration "Friends" To Steal The PROMIS Software

The period of this extraordinary delay, i.e., the period between the January 1986 Amendment and the March 1989 Amendment, coincided with intense efforts by both the Meese Justice Department and private sector friends of The Reagan Administration to acquire control of PROMIS from INSLAW.

In May 1986, the Meese Justice Department released the EAGLE RFP. That RFP stated that case management software would be developed and installed on every EAGLE computer, and would account for most of the capacity requirements of the computers. Justice also stated in the RFP that it did not have the case management software and did not wish to have it developed under the EAGLE contract.

Within days of the release of the RFP, Justice and the Reagan Administration's private sector friends acted to acquire control of PROMIS. A Pennsylvania-based computer services company, Systems and Computer Technology, Inc., approached INSLAW's Unsecured Creditors' Committee with an offer of several million dollars in cash to INSLAW's creditors in exchange for their support for a forced sale of INSLAW to SCT.

In the fall of 1985, SCT officials had discussed this hostile takeover plan in advance with the Justice Department and with a Wall Street Investment banker who finances the corporate acquisitions of Dr. Earl Brian, the Reagan Administration friend who was apparently intended to be the primary beneficiary of Project EAGLE. In September 1985, SCT's President, Michael Emmi, took a private aircraft flight to the Berkshire Mountains to meet with a Mr. Allen to discuss the planned hostile takeover of INSLAW. Herbert A. Allen, Jr., the CEO of Allen and Company, maintains a country home in the Williamstown, Massachusetts section of the Berkshires. SCT officials also met with Justice Department officials in the fall of 1985 to discuss in advance their plan to conduct a hostile takeover of INSLAW.

Earl Brian, with assistance of Allen and Company, had been trying to acquire control of PROMIS since at least 1983. In April 1983, the chairman of Hadron, Inc., a company controlled by Brian, contacted INSLAW in an attempt to buy the Company for the stated reason of acquiring title to PROMIS for use in obtaining the federal government's case management business that Hadron stated

it could obtain through its friendship with then White House Counselor Edwin Meese. Allen and Company then owned about $5 million in Hadron stock.

When INSLAW rebuffed the Hadron buy-out approach, the Hadron Chairman, Dominick Laiti, threatened INSLAW by saying: "We have ways of making you sell." During the following 90-day period, three major contract disputes arose in INSLAW's contract with the Justice Department. These disputes, which eventually led to Justice's withholding of payment of about $2 million for services and, thereby, forced INSLAW into bankruptcy, were engineered for that very purpose by Meese's long-time friend, D. Lowell Jensen, from his position as Assistant Attorney General for the Criminal Division, according to two of the 30 witnesses cited in the Mandamus lawsuit. Even though INSLAW rebuffed this purchase overture, Brian and Laiti met in New York City in September 1983 to raise the capital for use in purchasing title to PROMIS.

Brian apparently also met during September 1983 with a New York City equity investor in INSLAW and told that investor about the contract disputes at Justice that had erupted immediately after INSLAW had rebuffed the April 1983 Hadron buy-out attempt, and about the fact that the disputes would prove to be unresolvable by INSLAW. Laiti also met that month with Herbert A. Allen, Jr. and others at Allen and Company to raise the capital for the planned acquisition.

Governor Reagan appointed Brian, then 30 years old, to serve as Secretary of Health and Welfare during his second term 1970 - 1974. Allen and Company had become known as "Hollywood's Wall Street connection" during the eight years of Governor Reagan's Administration because Allen and Company acquired control of Warner Brothers in 1967, the first year of Governor Reagan's Governorship; and acquired control of Columbia Pictures in 1973, Reagan's second last year as Governor. According to Fortune magazine, Herbert A. Allen, Jr. is one of the key Wall Street financial backers for the liberal wing of the Democratic Party, and a confidante of former Vice President Walter Mondale.

Subsequent to the fall 1985 meeting on INSLAW between SCT and Allen and Company, Allen and Company bought 7.8% of SCT's stock for about $5 million.

By late August 1986, INSLAW had convinced a majority of the Unsecured Creditors Committee to reject the hostile takeover bid from SCT. Within days of that victory, the Justice Department

amended the EAGLE RFP to mandate that the EAGLE computers contain technical features that Justice later admitted were intended to make it possible to install PROMIS on the EAGLE computers. Significantly, Justice initially issued a written denial of any such connection in official answers published to bidders' questions about the August 1986 Amendments. At virtually the same time in August 1986, Arnold Burns[2], then Deputy Attorney General, wrote to INSLAW offering an early and, by implication, favorable resolution of the contract disputes that had propelled INSLAW into bankruptcy on condition that INSLAW accede to Justice's demand that it be allowed to use PROMIS without license from INSLAW.

In late September, 1986, Leigh Ratiner, then INSLAW's lead counsel on its lawsuit against Justice, met with E. Bob Wallach, who was then Of Counsel to Ratiner's law firm. Wallach, a close friend of Meese, told Ratiner that INSLAW was in a fight for its corporate life and that Justice would never settle the case. Wallach also stated that D. Lowell Jensen, who had served as Meese's Deputy Attorney General before leaving several months earlier to become a U.S. District Judge in San Francisco, was still involved in Justice Department decision-making about INSLAW.

---

[2] During the Senate Judiciary Committee hearings on Burns' confirmation as Deputy Attorney General in July 1986, Senator Mathias asked for and obtained a written commitment from Burns to make an early and independent review of the INSLAW matter with a view to seeking an amicable and fair resolution. In December 1987, however, INSLAW acquired information from a former Justice Department official in New York City, Vincent Abrunzo, that Burns had assisted the Justice Department conspiracy to steal the PROMIS software while still employed as an attorney in New York city in 1984 or 1985. Abrunzo, who served as Assistant U.S. Trustee in Manhattan in 1986, told INSLAW that Burns had arranged for Ken Rosen, a former colleague of Abrunzo's in the U.S. Trustee's office, to be hired by an INSLAW creditor for the purpose of colluding with the Justice Department in its covert effort in 1985 to force INSLAW's liquidation. After leaving the U.S. Trustee's office in 1982, Rosen had become an Associate in the Manhattan law firm founded and headed by Arnold Burns. Shortly before the INSLAW bankruptcy, Rosen relocated to a small firm in Roseland, New Jersey. Within 24 hours of the INSLAW bankruptcy, AT&T, a self-professed INSLAW creditor, hired Rosen as its lead counsel in the INSLAW bankruptcy even though AT&T had never previously employed the Roseland, New Jersey law firm. Rosen subsequently hired as his co-counsel in the INSLAW bankruptcy the New York City law firm, Shea and Gould, which traditionally represents Earl Brian and his companies in mergers and acquisitions. Abrunzo later confirmed in a sworn deposition that he had made such statements to INSLAW, but insisted that he had just been kidding.

On October 6, 1985, Justice apparently initiated another effort to achieve control of PROMIS for Project EAGLE. At a social luncheon that day with Leonard Garment, a senior partner in Ratiner's firm, Deputy Attorney General Burns complained about Ratiner's method of prosecuting the INSLAW litigation against Justice. The following week, Garment and the other members of the law firm's Senior Policy Committee, met and voted to fire Ratiner from his partnership of 10 years.

Later that month, a junior partner in the law firm, who was part of the INSLAW litigation team, approached INSLAW's principals with a recommendation that INSLAW concede to Justice the right to use PROMIS without paying license fees because the law firm had obtained information "on the highest authority" that Justice would never settle with INSLAW.

Neither Garment nor the law firm ever disclosed to INSLAW anything about the meeting with Arnold Burns. By January 1987, the law firm had presented INSLAW with a written demand for authority to settle the INSLAW case with Justice on terms nearly identical to those contained in Burns' August 1986 letter to INSLAW. The January 1987 letter to INSLAW claimed that settlement on such terms was necessary because of the law firm had recently discovered significant weaknesses in INSLAW's ability to prove its case.

Several months later, INSLAW obtained new litigation counsel, and then prosecuted and won the first part of the litigation against the Justice Department. The Bankruptcy Court bifurcated the INSLAW case, deferring until later the trial of INSLAW's claim to consequential and punitive damages. INSLAW claims to have sustained approximately $100 million in damages as a consequence of a Justice Department conspiracy to steal its software and drive INSLAW out of business. Included in this claim are the lost license fees for the planned use of PROMIS on Project EAGLE computers throughout the Justice Department, and lost profits from several strategic product development and co-marketing contracts between INSLAW and Fortune 500 companies.

One week after INSLAW prevailed against Justice in the litigation in U.S. Bankruptcy Court, Justice appears to have taken still another step in its effort to acquire control of PROMIS for Project EAGLE. Justice awarded a $40 million contract to Acumenics for computer services support to Justice's Land and Natural Resources Division. Earl Brian's Hadron, Inc. owns Acumenics. Acumenics, in turn, awarded a subcontract to Software Development

and Services Corporation (SDSC) to develop a prototype for a new case management software product to replace PROMIS. SDSC was established a couple of months after INSLAW filed for bankruptcy protection in 1985 by INSLAW's then Vice President for Software. The January 1990 RFP issued by the Thornburgh Justice Department is intended to develop the case management system prototyped by this Hadron/Acumenics/SDSC contract with Justice.

Also in October 1987, Justice contacted the Director of the Defense Contract Audit Agency (DCAA) to arrange for DCAA to conduct a new audit of INSLAW's three year contract with Justice that had ended in March 1985. Justice's Audit Staff had previously conducted and published reports on seven audits of that three year contract.

In November 1987, the Justice Department overtly moved in Bankruptcy Court to accomplish what the Bankruptcy Judge had recently found that Justice had tried to accomplish covertly: the liquidation of INSLAW. The Bankruptcy Judge, George F. Bason, Jr., ruled against the Justice Department motion to convert INSLAW to Chapter 7 (liquidation) because of a tax arrearage.

By Christmas 1987, the U.S. Court of Appeals had decided to deny Judge Bason reappointment to a new 14-year term, and to appoint in his stead, S. Martin Teel, who had been one of the Justice Department lawyers arguing in court for INSLAW's liquidation in November 1987.

The Thornburgh Justice Department Cover Up

Shortly before the Thornburgh Justice Department awarded EAGLE to Tisoft in June 1989, a decision was made "at the highest level" of Justice not to install PROMIS on the EAGLE computers, according to one of the 30 witnesses whose statements are summarized in the INSLAW Mandamus lawsuit.

By August 1989, the Thornburgh Justice Department had communicated privately with the General Services Administration about a PROMIS-related dilemma in Project EAGLE. This correspondence, a copy of which INSLAW obtained under the Freedom of Information Act (FOIA), explains that Justice will need to buy $4 million of new computers for the 42 largest U.S. Attorneys offices in order to continue to operate PROMIS in those offices while Justice develops new case management software for the EAGLE computers being acquired by the same offices. Although the EAGLE

RFP stated that the case management software would be installed on the EAGLE computers by the 13th month of the EAGLE contract, the August 1989 letter to GSA stated that it will take three years for Justice to develop and install the case management software on the EAGLE computers. In the meantime, the obsolete computers on which PROMIS has been operating in those offices will have to be replaced with $4 million worth of up-to-date computers in order to keep PROMIS operational.

During the same month of August 1989, Attorney General Thornburgh sent a five page letter to House Judiciary Committee Chairman Jack Brooks seeking to deflect Chairman Brooks from his announced intention of investigating Justice Department conduct in both the INSLAW case and Project EAGLE.

In his letter, Attorney General Thornburgh claimed to have familiarized himself with the facts of the INSLAW case and to be personally competent to comment on the case. He then proceeded to debunk INSLAW's allegations as without merit, and noted that two Justice Department agencies had already conducted investigations arising from the Bankruptcy Court's rulings without finding any evidence of wrongdoing. Thornburgh also suggested that Brooks check with Senator Sam Nunn before launching an investigation because Nunn's Senate Permanent Investigation Subcommittee had been conducting a staff investigation into INSLAW's allegations.[3]

The Thornburgh letter preceded by two months the U.S. District Court's unequivocal affirmation of the Bankruptcy Court's rulings about Justice Department malfeasance.

In his letter, Attorney General Thornburgh also sought to deflect Chairman Brooks from his announced decision to investigate claims that the EAGLE procurement was "wired" for Tisoft.

---

[3] The following month, September 1989, the Senate Permanent Investigations Subcommittee published a staff report of its 17-month investigation, 13 months of which overlapped with the Thornburgh Administration of the Justice Department. The report stated that Justice had obstructed the investigation, refused to permit the staff investigators access to many of the persons the staff sought to interview, and insisted on having Justice attorneys on the INSLAW litigation represent all Justice Department officials who were interviewed. The staff report further stated that some Justice employees with information about the INSLAW matter declined to be interviewed for fear of official Justice Department reprisals.

Thornburgh referred to a pending General Accounting Office (GAO) investigative report on EAGLE which he suggested would demonstrate that there was no need to investigate the EAGLE procurement.

As noted later in this Memorandum, however, the 1989 GAO Report on EAGLE addressed security concerns about EAGLE, not concerns about whether the procurement had been conducted fairly.

Having failed in repeated attempts to acquire control of PROMIS for Project EAGLE, the Thornburgh Justice Department has adopted the public pretense that EAGLE is just an office automation project, while privately planning to develop the missing case management software.

In its September 1989 report on EAGLE, for example, GAO described EAGLE as "a Department of Justice project intended to supply office automation systems to its lawyers, secretaries, and other employees." Presumably, GAO relied upon Justice for this statement of EAGLE's mission.

On March 2, 1989, Deputy Assistant Attorney General Stephen Colgate, the ranking Justice official on EAGLE, took pains to deflect an inquiry from Congressman Early about the case management component of EAGLE. Congressman Early asked, in the course of a hearing before the House Appropriations Subcommittee on Justice: "Is this departmental case management system being done through AMICUS and Project EAGLE?" Mr. Colgate replied as follows: "No, Sir. The AMICUS and Project EAGLE is [sic] a uniform office automation system."

Seemingly Reckless Disregard Of Security Of Investigative And Litigative Files

When GAO published its report on EAGLE the following month, however, the report highlighted the failure of Justice to develop a security plan to safeguard sensitive information that the EAGLE systems will contain, including "information about informants and undercover law enforcement officials." The GAO report also reported that although the initial EAGLE $76 million contract award had covered only the Criminal and Tax Divisions and the 93 U.S. Attorneys' Offices, "other litigating and non-litigating organizations will be required to either purchase EAGLE hardware and software or acquire systems that are compatible with Project EAGLE."

The Offering Memorandum prepared for use in the pending sale of Tisoft reportedly reflects this Justice decision to broaden the scope of EAGLE. Upon information and belief, the Tisoft Offering Memorandum claims that the EAGLE contract, although initially only $76 million, will rise to a level that Tisoft describes as "conservatively half a billion to $800 million" during the eight years of the contract. In support of this claim, the Tisoft Offering Memorandum reportedly documents decisions by the FBI, Drug Enforcement Administration, U.S. Marshals, Immigration and Naturalization Service, and Bureau of Prisons to buy their computer systems through the Tisoft EAGLE contract during the eight-year contract period.

In criticizing Justice about inadequate security precautions for EAGLE, GAO did not address the question of whether the planned sale of Tisoft to unidentified new owners might magnify the security risk. Neither did GAO address the effect on security of the apparent protracted conspiracy by Justice officials and Reagan Administration "friends" to acquire control of PROMIS for the EAGLE computers "through trickery, fraud and deceit."

As reported in the book Indecent Exposure by former Wall Street Journal reporter David McClintick, Herbert A. Allen, Jr. once told the New York Times: "We trade every day with hustlers, deal makers, shysters, con men ... That's the way business get started. That's the way this country was built."

As reported in the book, The Prosecutors, by Wall Street Journal reporter James Stewart, Meese's undisclosed business relationship with Earl Brian was the subject of an investigation of Meese in 1984 by Independent Counsel Jacob Stein. Stein found that Meese had purchased shares in the initial public offering of Brian's Biotech Capital Corporation in January 1981 with a loan from a Meese White House subordinate, Edwin Thomas. Thomas, in turn, borrowed money from Brian. Meese had failed to disclose either the loan or the equity investment in Biotech, and Stein searched in vain for evidence that Meese concealed his business relationship with Brian because of an undisclosed plan to award federal government favors to Brian. .

One favor that Meese did attempt to bestow on Brian was an appointment to the National Science Foundation Board. According to The Prosecutors, Meese's support for Brian was not sufficient to overcome serious problems uncovered by the FBI in its background investigation of Brian.

The most significant favor that Meese intended to give Brian was apparently Justice's massive EAGLE procurement, once control of the PROMIS case management software had been wrested from INSLAW.

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

BD|IN|PR-05

*PRESS RELEASE***PRESS RELEASE***PRESS RELEASE***PRESS RELEASE***

Office: (202) 828-8600
Home: (301) 299-2870

INSLAW REBUTS JUSTICE DEPARTMENT EFFORT TO DISMISS MANDAMUS LAWSUIT

Thursday, April 19, 1990

In a pleading filed by INSLAW, Inc. on April 17, 1990 before Senior U.S. District Judge William B. Bryant, Jr., INSLAW Counsel Elliot L. Richardson and William E. Jackson of Milbank, Tweed, Hadley & McCloy state as follows: "Whether negligently, willfully, criminally, or as a consequence of conflict of interest, respondents [Attorney General Dick Thornburgh and the U.S. Department of Justice] have not done what they could and should have done to find out whether or not the facts support their resistance to INSLAW's claims."

The new INSLAW pleading is in opposition to a Justice Department motion to dismiss INSLAW's Mandamus lawsuit, a motion based principally on the proposition that the Executive Branch's prosecutorial discretion is immune from judicial review. According to the latest INSLAW pleading, if the Justice Department's "Memorandum of Points and Authorities were a musical score, it would be called 'Theme and Variations.' The theme is: the decision of a prosecutor not to initiate or pursue a criminal proceeding is an unreviewable determination committed to the sole discretion of the executive branch."

In its pleading, INSLAW further notes as follows: "Absolute propositions are alien to our legal system. Respondents are asking this Court to accept their thematic proposition as absolute. This cannot be correct. If it were, Dickens' Mr. Bumble would be right: 'The law is a ass.' Similar absolutes are not found in comparable areas of the law. The separation of powers is not a bar to judicial review of the validity of legislative action. It is not a bar to the judicial invalidation of Presidential action. Administrative determinations not to investigate are only presumptively valid. Why should prosecutors --- and prosecutors alone ---- be immune?"

INSLAW also states in the pleading that the circumstances alleged in its petition and its attachments are "truly extraordinary." Included among the

xtraordinary circumstances cited by INSLAW are the following:

- o "The criminal conduct alleged by INSLAW involves the Justice Department itself and touches a former Attorney General, a former Deputy Attorney General, a former Director of the Executive Office for United States Trustees, the PROMIS Project Director, and other senior Departmental officials.

- o "The alleged criminal conduct involves the manipulation of a Departmental procurement worth more than $200 million.

- o "The Department itself is torn by conflicts of interest between its prosecutorial duties and its duty to defend the government against civil claims.

- o "The Department is also torn by a conflict between its duty to uncover wrongdoing and its desire to (1) protect its own employees, (2) spare itself embarrassment, and (3) prevent damage to public confidence in the administration of justice."

The INSLAW pleading also points out the strong correlation between the facts giving rise to INSLAW's Petition For A Writ of Mandamus and the original purpose of a Writ of Mandamus in the English legal system. INSLAW quotes Lord Mansfield on the origin of the Writ of Mandamus as follows: "It was introduced to prevent disorder from a failure of justice and defect of police. Therefore it ought to be used in all occasions when the law has established no specific remedy, and where in justice and good government there ought to be one."

INSLAW President William A. Hamilton issued the following statement: "One of the 30 witnesses upon whose statements INSLAW has relied in its Petition For A Writ of Mandamus is the former Chief Investigator of the Senate Judiciary Committee, Mr. Ronald LeGrand. Mr. LeGrand, in turn, has reported statements made to him by a senior Justice Department career official who personally witnessed some of the Justice Department malfeasance against INSLAW. One of those statements is that the INSLAW case is a lot dirtier for the Department of Justice than Watergate was, both in its breadth and its depth. The Justice Department under John Mitchell attempted to portray the Watergate scandal as merely a third-rate burglary. Both the Meese and the Thornburgh Justice Departments have similarly attempted to portray the INSLAW scandal as merely a garden variety contract dispute. No one who reads INSLAW's Mandamus lawsuit could believe that the INSLAW case is just a 'contract dispute.'"

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

INSLAW, INC., Petitioner,	:	
v.	:	Civil Action No. 89-3443 (WBB)
DICK THORNBURGH, as Attorney General of the United States, and UNITED STATES DEPARTMENT OF JUSTICE, Respondents.	:	

PETITIONER'S MEMORANDUM OF POINTS
AND AUTHORITIES IN OPPOSITION TO RESPONDENTS' MOTION
TO DISMISS THE PETITION FOR A WRIT OF MANDAMUS

TABLE OF CONTENTS

TABLE OF AUTHORITIES

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

INSLAW, INC.,	:	
Petitioner,	:	
v.	:	Civil Action No. 89-3443 (WBB)
DICK THORNBURGH, as Attorney General of the United States, and UNITED STATES DEPARTMENT OF JUSTICE,	:	
Respondents.	:	

PETITIONER'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO RESPONDENTS' MOTION TO DISMISS THE PETITION FOR A WRIT OF MANDAMUS

INTRODUCTION

Respondents' motion to dismiss must be denied because (1) INSLAW has standing, (2) the Department of Justice did not have discretion not to investigate INSLAW's allegations of the Department's dereliction of duty, (3) the separation of powers doctrine does not immunize this abdication of Departmental duties from judicial review, and (4) INSLAW's petition satisfies all of the requirements for the issuance of a writ of mandamus.[1]

For purposes of respondents' motion to dismiss, petitioner's allegations must, of course, be accepted as true, and any ambiguities or uncertainties concerning the sufficiency

[1] To support points not requiring further elaboration, INSLAW will cite pertinent portions of its Petition for a Writ of Mandamus ("Pet."), Memorandum of Law in Support of its Petition for a Writ of Mandamus ("Pet. Mem."), and the Exhibits attached to the Petition ("Pet. Exh."). Respondents' Memorandum of Points and Authorities in support of their motion to dismiss will be cited as "Resp. Mem."

of petitioner's claim for relief must be resolved in favor of petitioner. Gross v. Winter, 692 F. Supp. 1420, 1422 (D.D.C. 1988), aff'd, 876 F.2d 165 (D.C. Cir. 1989). See Hugh v. Rowe, 449 U.S. 5, 10 (1980); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974). To support their motion, respondents from time to time make legal arguments which rest on highly selective versions of the facts. Where this is the case we shall point it out. The issues of fact thereby raised are sufficient in themselves to require denial of respondents' motion to dismiss.

The facts underlying the allegations in INSLAW's petition and its attachments emerged in three stages: (1) in the Bankruptcy Court trial whose findings have since been affirmed by this Court; (2) in a statement submitted to the Department by the Hamiltons in February, 1988; and (3) through subsequent investigation by INSLAW.

In the first stage, INSLAW charged that the Department had improperly asserted control over INSLAW's proprietary software and failed to curb the efforts of Departmental officials to harm INSLAW. On January 25, 1988 the Bankruptcy Court found that certain Departmental officials "took, converted, stole" INSLAW's proprietary software "through trickery, fraud and deceit." Pet. ¶ 8. This Court affirmed those findings on November 22, 1989, declaring that "the government acted willfully and fraudulently to obtain property that it was not entitled to under the contract." Pet. ¶ 10.

The seriousness of the wrongdoing revealed in the

Bankruptcy Court trial was underscored by possible perjury on the part of witnesses seeking to justify the government's conduct. One witness, Judge Cornelius Blackshear, originally swore that political pressure had been used in the attempt to force INSLAW into liquidation. The following day, again under oath, Blackshear recanted that testimony. The Bankruptcy Court found that his original testimony was true, and this finding has since been corroborated by several informants. Pet. Exh. B ¶¶ 2(b), 3(j).[2]

The Bankruptcy Court findings should in themselves have spurred the Department to take swift corrective action, even though it was foreseeable that such action might not only expose widely ramified criminal conduct on the part of senior employees of the Department, but also make the Department liable for punitive and consequential damages much larger than the $6.8 million already awarded by the Bankruptcy Court. Pet. Mem. at 3-4. This potential liability created a conflict of interest between the Department's duty to investigate the charges of a criminal conspiracy involving its own employees and its zeal to minimize or defeat INSLAW's civil-damage claims. Pet. Mem. at

---

[2] The staff of the Senate Permanent Subcommittee on Investigations found Judge Blackshear's explanation for his recantation to be implausible. Senate Comm. on Gov'tal Affairs, 101st Cong., 1st Sess., Allegations Pertaining to the Dept. of Justice's Handling of a Contract With INSLAW, Inc. 58, at 29 (Comm. Print 1989) [hereinafter "Subcommittee Report"].

6.3

At the second stage, in February, 1988, the Hamiltons submitted a written statement to the Public Integrity Section of the Department of Justice Criminal Division setting forth their reasons for believing that the combination of high-level hostility and low-level vindictiveness could not sufficiently account for the persistence and tenacity of the attempts to gain control of INSLAW's software. These could be accounted for, the Hamiltons pointed out, only by a conspiracy among friends of Attorney General Meese to take advantage of their relationship with him for the purpose of obtaining a contract worth more than $200 million for the automation of the Department's litigating divisions. Pet. ¶¶ 11, 12; Pet. Exh. B, ¶ 3.

The third stage began on May 4, 1988, when the Public Integrity Section notified INSLAW that it had completed its review of the Hamiltons' allegations and concluded that the appointment of an independent counsel was not warranted. Although the Public Integrity Section also informed INSLAW that it would investigate some of the Hamiltons' allegations, INSLAW concluded that under the circumstances it should not depend on the Section to do this but should initiate its own effort to corroborate them. The Hamiltons' statement of February 1988 has

---

3 From an early date the Department's duty to investigate wrongdoing on the part of its own employees has clashed with its interest in minimizing or defeating INSLAW's civil damage claims. Pet. at ¶ 23. As the Permanent Subcommittee on Investigations observed, "[t]he Department's representatives expressed fear that the Subcommittee's investigations would jeopardize the anticipated appeal." Subcommittee Report at 58.

now been supplemented and corroborated by additional witnesses. Pet. Exh. B, ¶ 4.

Respondents have not communicated with 29 of the 30 witnesses. Affidavit of William A. Hamilton appended hereto as Exhibit A. They have not bothered to interview William A. Hamilton himself despite his intimate knowledge of the situation, and neither have they sought to obtain relevant documents. Astonishingly, they have not even attempted to learn the identity of the senior DOJ career person who has charged that the INSLAW case is "a lot dirtier for the Department of Justice than Watergate had been, both in its breadth and its depth." Pet. ¶ 14. Significantly, the Department has not denied any of these facts and they must be considered true for the purposes of this motion.

On July 18, 1989 the Public Integrity Section informed INSLAW that its investigation had been terminated "due to lack of evidence of criminality." Pet. ¶ 16. Allegations that this "investigation" was not credible are central to INSLAW's petition. Pet. ¶¶ 16, 17, 18, 23, 24, 25. Respondents cite the investigation, nonetheless, in support of the contention that their decision not to do more is unreviewable. Resp. Mem. at 3, 10-11, 20, 27. They also point to the fact that the Permanent Subcommittee on Investigations staff study found "no proof of a conspiracy." Resp. Mem. at 9-10. While it strikes us as surprising that respondents should choose to lean upon the legislative branch to support the denial of a role for the

judicial branch, their calling attention to the staff study seems even more so. The study found that "[t]he Staff's attempt to conduct a free, full and timely investigation was hampered by the Department's lack of cooperation"; it also found that "[t]he staff learned through various channels of a number of Department employees who desired to speak to the Subcommittee, but who chose not to out of fear for their jobs."[4]

The less the Department knew of the facts, the more easily it could rationalize the nonperformance of duty. It could not completely duck an investigation, but it might get away with a superficial one. Pet. Mem. at 3-4. It now appears that respondent Thornburgh has also adopted a wait-and-see position. At a meeting with members of the press on March 7, 1990, in response to a question about the INSLAW case, he said: "But insofar as responding to the allegations that have been made, until the civil suit has run its course, it would [be] premature for us to take any action." Transcript of Remarks at Sperling Breakfast (March 7, 1990).

By asking this Court to take into account the investigations that were conducted, respondents invite scrutiny of the adequacy of those investigations. An issue of fact is thereby raised.

---

[4] Senate Comm. on Gov'tal Affairs, 101st Cong., 1st Sess., Allegations Pertaining to the Dept. of Justice's Handling of a Contract with INSLAW, Inc. 58, at 39, 46 (Comm. Print 1989). Other examples of the Department's obstruction of the Subcommittee's investigation can be found at pages vii, 48, 49, 51 of the report.

ARGUMENT

I. A PROSECUTORIAL DECISION NOT TO INVESTIGATE IS NOT AUTOMATICALLY IMMUNE FROM JUDICIAL SCRUTINY.

If respondents' Memorandum of Points and Authorities were a musical score, it would be called "Theme and Variations." The theme is: the decision of a prosecutor not to initiate or pursue a criminal proceeding is an unreviewable determination committed to the sole discretion of the executive branch. It first appears on page 3 of respondents' memorandum and reappears in the same or similar language at pages 21-24, 27, 29, 30, 32-36. The variations emerge under the headings of standing, redressability, and the requirements of mandamus. Together, the theme and variations occupy two-thirds of the memorandum; the remainder addresses subsidiary matters such as the causal link between respondents' wrongdoing and the injury to INSLAW and the availability to INSLAW of alternative remedies.

Absolute propositions are alien to our legal system. Respondents are asking this Court to accept their thematic proposition as absolute. This cannot be correct. If it were, Dickens' Mr. Bumble would be right: "The law is a ass." Similar absolutes are not found in comparable areas of the law. The separation of powers is not a bar to judicial review of the validity of legislative action. It is not a bar to the judicial invalidation of Presidential action. Administrative determinations not to investigate are only presumptively valid. Why should prosecutors -- and prosecutors alone -- be immune?

The question of whether or not judicial review of the

action of another branch of government is necessary or justified is ordinarily a question of degree. If the action complained of is arbitrary enough, unreasonable enough, discriminatory enough, or damaging enough to important public interests, the courts can and do intervene. Indeed, respondents' own exposition of the reasons why courts customarily defer to the executive branch in prosecutorial matters does not support the transformation of a prudential precept into a sacrosanct dogma. Resp. Mem. at 24. One cited reason is that "few subjects are less adapted to judicial review" than the exercise of prosecutorial discretion. Newman v. United States, 382 F.2d 479, 480 (D.C. Cir. 1967). Another is that "the manifold imponderables" that enter into a prosecutor's decision are "not readily amenable to judicial supervision." Inmates of Attica Correctional Facility v. Rockefeller, 477 F.2d 375, 380 (2d Cir. 1973). The many variables that influence a prosecutor's judgment are "not readily susceptible" to judicial analysis. Wayte v. United States, 470 U.S. 598, 607 (1985). These are all sensible considerations, but each is expressed in terms of degree: "less adapted," "not readily amenable," "not readily susceptible." None of these cases, therefore, is authority for placing all prosecutions behind an impenetrable barrier.

Beyond that, none of the cases cited by respondents deals with circumstances anything like those at bar. Viewed in combination, as they must be, the circumstances alleged in INSLAW's petition and its attachments, which must be taken as

true, are truly extraordinary. These circumstances are as follows:

- o The criminal conduct alleged by INSLAW involves the Justice Department itself and touches a former Attorney General, a former Deputy Attorney General, a former Director of the Executive Office for United States Trustees, the PROMIS Project Director, and other senior Departmental officials.

- o The alleged criminal conduct involves the manipulation of a Departmental procurement worth more than $200 million.

- o The Department itself is torn by conflicts of interest between its prosecutorial duties and its duty to defend the government against civil claims.

- o The Department is also torn by a conflict between its duty to uncover wrongdoing and its desire to (1) protect its own employees, (2) spare itself embarrassment, and (3) prevent damage to public confidence in the administration of justice.

- o A Senate Subcommittee has found that Departmental employees otherwise willing to testify chose not to do so out of fear for their jobs.

- o Other Departmental employees have given information to INSLAW on the express condition that they will not be identified until and unless they have been assured of protection against reprisal.

- o Two courts have already found that the Department stole INSLAW's proprietary software through "trickery, fraud, and deceit."

- o The Department's own "investigation" into INSLAW's allegations has been exposed in the clearest possible manner as superficial and inadequate.

These circumstances, we submit, add up to a difference of degree that should overcome the normal reluctance of a court to take jurisdiction in prosecutorial situations. Whether or not they do so, in any case, is an issue of fact that cannot be resolved without a hearing.

Although respondents have collected a number of judicial pronouncements that seem to support their absolutism, the facts in the cases from which those pronouncements were drawn are so much less shocking than those involved here that the decisions themselves have no precedential relevance. See, e.g., Heckler v. Chaney, 470 U.S. 821, 832 (1985); Confiscation Cases, 74 U.S. (7 Wall.) 454, 457 (1869); Powell v. Katzenbach, 359 F.2d 234, 234 (D.C. Cir. 1965), cert. denied, 384 U.S. 906 (1966); and other cases cited in Resp. Mem. at 22-24.

Since Chaney is respondents' bellwether, it will serve as illustrative. There prison inmates brought action against the Food and Drug Administration to get lethal injection drugs approved as "safe and effective" for executions. Chaney, 470 U.S. at 824. The Supreme Court granted summary judgment for the FDA on the ground that an agency decision not to take enforcement action is presumed immune from judicial review under the Administrative Procedure Act. There was no suggestion that the FDA's enforcement decision was tainted by the agency's own misconduct or conflict of interest. Indeed, the court called attention to the limited applicability of its decision: "Nor do we have a situation where it could justifiably be found that the agency has 'consciously and expressly adopted a general policy' that is so extreme as to amount to an abdication of its statutory responsibilities." Id. at 832 n.4 (emphasis added).

In a concurring opinion, Justice Marshall articulated the very position we urge here: "[S]urely it is a far cry from

asserting that agencies must be given substantial leeway in allocating enforcement resources among valid alternatives to suggesting that agency enforcement decisions are presumptively unreviewable no matter what factor caused the agency to stay its hand." Id. at 843. After discussing various cases in which courts were held to have properly intervened to correct potentially vindictive exercises of prosecutorial discretion, Justice Marshall added, "If a plaintiff makes a sufficient threshold showing that a prosecutor's discretion has been exercised for impermissible reasons, judicial review is available." Id. at 847.

Further undercutting Chaney's value to respondents is the Supreme Court's citation of Adams v. Richardson, 480 F.2d 1159 (D.C. Cir. 1973). In Adams the Department of Health, Education and Welfare was charged with not taking appropriate action to end segregation in public educational institutions receiving federal funds. Holding that the exercise of HEW's discretion was not unreviewable, the Court stated that "this suit is not brought to challenge HEW's decisions with regard to a few school districts in the course of a generally effective enforcement program. To the contrary, appellants allege that HEW has consciously and expressly adopted a general policy which is in effect an abdication of its statutory duty." Id. at 1162.[5]

[5] Respondents also cite cases involving the Ethics in Government Act, 28 U.S.C. §§ 591-98, which refused to review decisions by the Attorney General not to take action. Resp. Mem. at 30-31. The EGA, however, expressly forecloses judicial review of an Attorney General's decision not to appoint independent

Our Memorandum of Law cites NAACP v. Levi, 418 F. Supp. 1109 (D.D.C. 1976), and Nader v. Saxbe, 497 F.2d 676 (D.C. Cir. 1974), for the proposition that there can be no usurpation of "prosecutorial discretion" by a court "where the failure to perform a prosecutorial duty is the consequence not of legitimate discretion, but of discrimination, conflict of interest, obstruction of justice, or sheer neglect." Pet. Mem. at 10. In reply, respondents attempt to show that INSLAW's reliance on Levi and Nader is "misplaced" because "both of these cases involved challenges to Departmental prosecution policies rather than individual enforcement decisions." Resp. Mem. at 34-35. We take this as a concession that a court does have subject-matter jurisdiction where "Departmental prosecution policies" have been challenged. Respondents must therefore also agree with the Levi court's conclusion that, while "[f]ederal courts have traditionally acquiesced in discretionary decisions of the United States Attorney not to prosecute persons," an "unfettered discretion is questionable when it fails to promote the ends of justice and denies rights conferred upon a citizen by the

---

counsel. 28 U.S.C. § 592(b)(1)(1982). Banzhaf v. Smith, 737 F.2d 1167 (D.C. Cir. 1984), one of the cited cases, points out that Congress "explicitly sought to prevent premature airing of criminal charges that might prove on investigation to be unfounded." Id. at 1169. The court also notes "the lack of any provision for members of the public to petition the Attorney General, the concern of the statute with limiting review of the Attorney General's actions, the clear congressional concern for privacy, and the existence of congressional oversight as an enforcement mechanism . . . ." Id. at 1170.

Constitution and by Federal law." Id. at 1116.[6]

Dictum it may be, but we also find reassuring the Court of Appeals for the District of Columbia Circuit's observation that "the decisions of this court have never allowed the phrase 'prosecutorial discretion' to be treated as a magical incantation which automatically provides a shield for arbitrariness." Medical Comm. for Human Rights v. SEC, 432 F.2d 659, 673 (D.C. Cir. 1970), vacated as moot, 404 U.S. 403 (1972); cited in Pet. Mem. at 10.

Referring to "the investigation, criminal or administrative, into misconduct or fraud related to Department programs or activities," the Acting Inspector General of the Department of Justice recently declared:

> Second, fraud and misconduct allegations must be resolved promptly. As the principal legal and law enforcement agency of the Federal Government, the public must be confident that when the Department of Justice undertakes an investigation or prosecution or law suit, it will do so with probity, equity and fairness.

Statement of Acting Inspector General Anthony C. Moscato before

---

[6] Respondents purport to see a significant constitutional issue in our request for periodic reports. See Resp. Mem. at 2, 5-6, 12, 25. This seems to us farfetched. We asked for the reports because the risk of improper influence stemming from respondents' conflicts of interest makes it desirable that this Court be kept abreast of the implementation of its order. Pet. Prayer (iv) at 15. This provision, however, is not integral to the relief sought. Its appropriateness, and thus its constitutionality, depends on the extent of the bias that permeates the Department and the degree to which its conduct toward INSLAW has been distorted by a conflict of interest. These are questions of fact. The need for periodic reports, therefore, can be determined only after a hearing on the merits.

the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, March 21, 1990, at 5.

Where "fraud and misconduct allegations" have been made and where "the principal legal and law enforcement agency" has not pursued them with "probity, equity and fairness," judicial review is not only appropriate but necessary.

II. INSLAW HAS STANDING TO SEEK A FAIR AND THOROUGH INVESTIGATION.

A party has standing if it alleges (1) some actual or threatened injury (2) fairly traceable to the defendant's unlawful conduct that (3) is likely to be redressed by the requested relief. Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 472 (1982); Resp. Mem. at 13; Pet. Mem. at 13.

Respondents do not challenge the fact that INSLAW has suffered actual injuries and is threatened by further injuries. Resp. Mem. at 14-15 (citing Pet. Mem. at 12); Pet. ¶ 18. That being so, we propose to show first that these injuries are fairly traceable to respondents' unlawful conduct and then explain why they are likely to be redressed by the requested relief. The last two sections of this part of our memorandum will discuss INSLAW's standing (1) to seek redress for respondents' failure to fulfill their duty to enforce the criminal laws of the United States and (2) to seek redress for respondents' failure to make a fair and conscientious assessment of INSLAW's civil claims.

A. INSLAW's Injuries Are Fairly Traceable to Respondents' Unlawful Conduct.

Following a paraphrase of INSLAW's allegations of injury, respondents make the following statement: "By any reasoned analysis, however, it is clear that these injuries stem from Inslaw's underlying contractual dispute with Department officials, not from the government's alleged failure, years later, to conduct a 'thorough' investigation." Resp. Mem. at 15.

"By any reasoned analysis," on the contrary, our petition and supporting memorandum make clear that the injuries alleged by INSLAW do not stem from INSLAW's "underlying contractual dispute with Department officials" but from respondents' disregard of the "trickery, fraud and deceit" found by the Bankruptcy Court and from their failure to investigate the broader conspiracy subsequently alleged by INSLAW. Pet. passim; Pet. Mem. passim. INSLAW brought suit in the Bankruptcy Court not to resolve a contractual dispute but to recover damages for the Department's tortious and fraudulent conduct. INSLAW's contractual claims are pending before DOTCAB. See infra pp. 31-33.

Respondents assert that "the burdens allegedly suffered by Inslaw in pursuing its civil claims against the Department cannot fairly be attributed to governmental enforcement decisions taken long after the alleged contract disputes that prompted Inslaw's suits." Resp. Mem. at 16. In fact, INSLAW's petition plainly speaks to the consequences of "governmental enforcement decisions" -- i.e., governmental decisions not to conduct a

thorough and impartial investigation. The injury INSLAW has suffered stems from its effort to pursue an investigation of its own. INSLAW's right to relief, therefore, is founded not on conjecture but on allegations clearly tracing the causal link between the harm it has suffered and respondents' neglect of their duty.

INSLAW would not have suffered the harm alleged in its petition had respondents conducted a thorough and impartial investigation to determine whether or not the rights of INSLAW had been violated. The duty to conduct such an investigation belongs to respondents. It is owed to INSLAW. In the words of McCollum v. Smith, 596 F. Supp. 165, 167-68 (D.D.C. 1984), quoted by respondents, "the appropriate inquiry is whether these defendants' actions have caused [the] injury . . . ." Resp. Mem. at 15-16. If there be any doubt that these respondents have caused INSLAW's injuries, let it be resolved, as an issue of fact, at an appropriate hearing.

B. INSLAW's Injuries Are Likely To Be Redressed by the Requested Relief.

One of the variations on respondents' basic theme is woven into the issue of redressability. They cite, for example, a case in which inmates who had been beaten by prison guards were denied standing to compel the issuance of an arrest warrant against the guards. Leeke v. Timmerman, 454 U.S. 83 (1981); Resp. Mem. at 17. The issuance of an arrest warrant would have been only "a prelude to actual prosecution," and the decision to prosecute was "totally within the discretion of the prosecutor."

Since the issuance of the arrest warrant "would not necessarily lead to a subsequent prosecution," the injuries were not redressable. 454 U.S. at 86-87.

In the present case respondents have no discretion not to investigate, and an order requiring them to do so is precisely the redress being sought.

Respondents also refer as "particularly relevant" to the issue of redressability in Community for Creative Non-Violence v. Pierce, 786 F.2d 1199 (D.C. Cir. 1986). Resp. Mem. at 19. Plaintiffs there had asked the office of the United States Attorney to investigate the charge that government officials had engaged in a "criminal coverup." Commenting on the chain of events that might ensue if the requested investigation took place, the court said: "[i]f an investigation . . . followed and if the United States Attorney found that a HUD official had committed perjury in defending the report, then, presumably that finding would, in one way or another, advance appellants' civil suit." Id. at 1202; Resp. Mem. at 19. The case is less relevant, however, than respondents believe. INSLAW is not seeking to compel a prosecution from which it might somehow benefit. INSLAW is seeking to compel an investigation in order to uncover the facts underlying a situation which, on its face, cries out for investigation. Provided that the investigation is thorough and impartial, the benefit to INSLAW will be definite, sustantial, and not speculative. One outcome may be better than another, but any outcome will stop the

bleeding from INSLAW's injuries.

As our petition and memorandum make clear, INSLAW's requests for investigation are directed at the performance of both the Department's criminal and civil duties. If respondents are compelled to fulfill either of these duties, they will be obliged to pursue the same leads that produced the information on which INSLAW's petition and its attachments are based. Either of two outcomes are possible: (1) respondents will uncover evidence confirming the validity of INSLAW's charges, or (2) they will have exhausted all the available leads without having found additional proof of wrongdoing beyond that already found by the Bankruptcy Court.

Either outcome will prevent, limit, or terminate the continuing harm still being suffered by INSLAW. Confirmation of INSLAW's charges establishing respondents' liability to INSLAW will leave only the issue of damages to be tried or negotiated. Respondents will abandon their appeal from the judgment of this Court, place the investigation of Departmental wrongdoing in untainted hands, and bring to justice the participants in the conspiracy to destroy INSLAW. The latter outcome will persuade INSLAW that it has no need to go on expending the money, energy, and staff time which, under the circumstances, it has heretofore been obliged to expend. To doubt this would be to presume that the Hamiltons and their counsel are unreasonable and unintelligent. We trust that this Court will not grant respondents the benefit of that presumption -- or at least not

make it irrebuttable. Should respondents seek to rebut it, they will create an issue of fact.

INSLAW's injuries will be redressed by the requested relief for essentially the same reason that it has no alternative to the remedy of mandamus.

C. INSLAW Has Standing to Seek Redress for Respondents' Failure to Fulfill Their Duty to Enforce the Criminal Laws of the United States.

Respondents cite a "long line of authority" holding that a "member of the public" has no standing to seek a judicial order compelling the executive branch to undertake a criminal investigation, and respondents persistently refer to INSLAW as "the public." Resp. Mem. at 30. But INSLAW does not seek such an order merely as a "member of the public." INSLAW is alleging a crime by the very agency charged with enforcing the law, and not just an ordinary crime: it is a scheme or conspiracy striking at the heart of the Justice Department's integrity. Pet. ¶ 12, 14. INSLAW is more than a victim of this conspiracy; it is its target. In addition, INSLAW possesses unique knowledge of the information, and the sources of the information, on which the foregoing allegations are based. It has supplied most of that information to the Department.

Plaintiffs who supply information to Department of Justice investigations have standing to compel these investigations to be properly conducted. Nathan v. Attorney General of the United States, 557 F. Supp. 1186, 1187 (D.D.C.), later proceeding, 563 F. Supp. 815 (D.D.C. 1983), rev'd on other

grounds sub nom. Nathan v. Smith, 737 F.2d 1069 (D.C. Cir. 1984). In Nathan, plaintiff gave information to the Attorney General that high officials of the United States authorized, or negligently permitted, anti-civil rights violence and then conspired to conceal their involvement. Id. The court held that plaintiff had standing to invoke procedures under the Ethics in Government Act ("EGA") § 592(c)(1) to compel the Attorney General to either investigate or report to the court that the matter did not require further action. Id. The court stated that while the "law of standing remains on a zig-zag course," standing was clearly present within the facts of Nathan:

> Plaintiffs are victims of the alleged crime. Theirs is far more than a generalized grievance. They sought investigation under the Act, they provided information, the Attorney General failed to act. The controversy is concrete. No separation of powers question or matter of prudential concern is involved.

Id. at 1189. In reaching its holding, the court asked:

> If not plaintiffs, who can be said to have a cause of action to insist that the Act be carried out in accordance with its terms . . . Thus if the Act is enforceable at all it must be through those, like plaintiffs here, who have supplied specific information and pursue their application for an investigation in the District Court.

Id.

INSLAW has special reason -- and special responsibility -- to seek justice. It has been thrust by force of extraordinary circumstances into an effort to vindicate crucial public interest: the integrity of the Department's performance of its

law-enforcement responsibilities. Courts recognize that certain kinds of situations demand private advocacy for the public interest and have granted standing to those who have assumed that role. In Levi, the court granted standing to the NAACP to challenge a "superficial" investigation conducted by the Department of Justice because the NAACP has "an interest in free access to and an even-handed application of the legal and criminal justice procedures of the Federal Government." Levi, 418 F. Supp. at 1114.

In light of Nathan and Levi, INSLAW certainly has the standing to act as the public advocate. If INSLAW -- which claims direct injuries from the Departmental malfeasance it alleges -- does not have standing, who else could perform this role?

If INSLAW does not have standing, who does? When strong grounds exist for believing that the Department has failed in its duty to police itself, there is no other executive branch agency that can take over that function. No other agency, in any case, has the opportunity or incentive to look into allegations of wrongdoing on the part of the Department of Justice. And certainly no one in the White House is likely to second-guess the Attorney General's dismissal of a complaint against his Department as ill-founded. In such a situation, compelling considerations of public policy make it essential for a court, at the instance of the one party with an immediate stake in holding the Department to account, to have a hearing at which

the basis for the complainant's allegations can be fully aired.

Respondents do not address the public policy considerations that make it imperative to grant standing to a petitioner in the extraordinary circumstances presented by this case. Neither do they point to any case in which standing has been denied under anything like comparable circumstances. Although they cite as "remarkably similar" the facts in Community for Creative Non-Violence v. Pierce, 786 F.2d 1199 (D.C. Cir. 1986), the differences between the two situations are marked. Resp. Mem. at 18, 20, 23. In Non-Violence, a group of homeless persons and individuals who worked on their behalf sued the Department of Housing and Urban Development alleging that a departmental report underestimated the number of the homeless, thus threatening a reduction of public support. Holding that plaintiffs lacked standing to sue, the court dismissed the action. Plaintiffs asked the Office of the United States Attorney, which was defending HUD, to investigate the charge that officers of HUD had engaged in a "criminal coverup." Id. at 1200. When this request was denied, plaintiffs moved to disqualify the U.S. Attorney's Office from representing HUD in the civil suit, arguing that "a conflict of interest exists between the United States Attorney's responsibilities to (1) represent HUD in the civil litigation, and (2) investigate possible criminal activity committed by officials at HUD in the course of that same litigation." Id. at 1201. The court denied plaintiff's motion, again on the grounds that plaintiffs lacked

standing.

The case is distinguishable, first, for the reason that the "possible" criminal activity in question was not that of the Department of Justice but of the Department of Housing and Urban Development. Second, the credibility of Justice's investigation was not challenged. In fact, there was no evidence warranting belief that "the investigation is . . . flawed or tainted in any way." Id. at 1202. Finally, the possibility that there would be a reduction of public support for the homeless was purely conjectural. Here the moving party has suffered and continues to suffer serious harm.

D. INSLAW Has Standing to Seek Redress for Respondents' Failure to Make a Fair and Conscientious Assessment of INSLAW's Civil Claims.

As a second basis of standing, independent of the first, INSLAW has sustained, and continues to sustain, substantial injuries as the direct consequence of respondents' failure to fulfill their duty to make a fair and conscientious assessment of the merits of INSLAW's civil claims.

Respondents have fought against INSLAW's charges of Departmental wrongdoing in the Bankruptcy Court, this Court, and now in the Circuit Court of Appeals. As is more fully argued in the immediately following pages and in our Memorandum of Law (at 16-17), respondents have a duty to know whether or not the grounds on which they are defending the government have a solid foundation of fact. Whether negligently, willfully, criminally, or as a consequence of conflict of interest, respondents have

not done what they could and should have done to find out whether or not the facts support their resistance to INSLAW's claims.

INSLAW has been injured and is still being injured as a direct result of respondents' breach of this duty. The injuries are redressable by actions completely within the power of respondents to perform. For the reasons set forth, infra, at pages 31-35, INSLAW has no alternative means of bringing about comparable redress. INSLAW has thus satisfied the requirements of standing for purposes of the pursuit of its civil, non-contractual claims without regard to whether or not it also has standing to complain of respondents' failure to fulfill their law-enforcement responsibilities.

III. INSLAW'S PETITION SATISFIES THE REQUIREMENTS FOR ISSUANCE OF A WRIT OF MANDAMUS.

United States District Courts have original jurisdiction of any action in the nature of mandamus to compel officers or employees of the United States or any agency of the United States to perform a duty owed to a plaintiff. 28 U.S.C. § 1361 (1982). The remedy of mandamus is available if defendant has a clear duty to act, plaintiff has a clear right to relief and there is no other remedy available to plaintiff. Pet. Mem. at 8-9.

A. Respondents Have a Duty to Enforce the Criminal Laws.

Respondents' duty to enforce the criminal laws embraces the duty to investigate. Respondents are obligated, whenever they initiate a criminal investigation, to pursue the evidence as far as may become necessary. See Berger v. United States, 295

U.S. 78, 88 (1935). As this Court has said, a prosecutor "has an affirmative responsibility to investigate prudently suspected illegal activity when it is not adequately pursued by other agencies." Levi, 418 F. Supp. at 1115 (citing A.B.A. Standards Relating to the Administration of Criminal Justice, The Prosecution Function, Part III (1974).

Where "[f]ederal officials are acting contrary to law, abusing their discretion and acting outside the limits of their permissible discretion," mandamus "affords the appropriate remedy." Id. at 1117. Levi involved a black man who, while in the custody of white policemen after being picked up for a speeding violation was shot to death. Requesting an investigation by the Justice Department, plaintiffs alleged that the FBI had abdicated its responsibility, tried to whitewash the incident, and unreasonably relied on a report provided by the state police. Id. at 1112-13. The government's motion to dismiss the complaint was denied.

The availability of mandamus to compel observance of the duty to enforce the criminal laws was also recognized in Nader v. Saxbe, 497 F.2d 676 (D.C. Cir. 1974). Plaintiffs there sought a writ of mandamus to compel the Attorney General of the United States and the United States Attorney for the District of Columbia to initiate criminal prosecution against alleged violators of the Federal Corrupt Practices Act. Although finding that the plaintiffs lacked standing, the Court of Appeals took issue with the District Court's conclusion that prosecutorial

decisionmaking is wholly immune from judicial review and pointed out that mandamus is the appropriate remedy where "no legitimate consideration informed the prosecutor's decision not to prosecute the individual in question." Id. at 679 n.18.

Respondents' attempt to diminish the relevance of Levi and Nader on the basis that "both of these cases involved challenges to Departmental prosecution policies rather than individual enforcement decisions" has previously been discussed in the context of judicial review. See supra p. 12. In the context of duty to enforce the criminal laws, the suggested distinction raises two questions, first as to the reality of the distinction, second as to its relevance. As to the former, a fair characterization of Levi and Nader is that they involved individual enforcement decisions growing out of Departmental prosecution policies. The resulting situation reached a level of public significance warranting judicial intervention. The decision not to conduct a thorough and impartial investigation of INSLAW's allegations was an individual enforcement decision growing out of Departmental behavior and has attained a level of public significance that equally demands judicial intervention.

As to relevance, what difference should it make whether the matter involves an individual enforcement decision rather than a prosecution policy if, in either case, the integrity of the administration of justice is jeopardized? In each, "unfettered discretion" has had the consequence of undermining "the ends of justice." See NAACP v. Levi, supra, at 1116. In

INSLAW, Inc.
1125 15th St. N.W. Suite 300 Washington, D.C. 20005
(202) 833-8600 FAX (202) 659-0275

both situations, a writ of mandamus is the appropriate remedy.

B. Respondents Have a Duty to Make a Fair and Conscientious Assessment of INSLAW's Civil Claims

In the conduct of litigation, the bar at large is held to a high standard of integrity. Respondents' obligation to maintain public confidence in the administration of justice imposes an additional burden. Pet. Mem. at 14-17. When respondents resist a civil claim against the United States -- and particularly when they do it with the no-holds-barred tenacity that has been displayed throughout this case -- they are warranted in doing so only on a basis well grounded in the ascertainable facts.

Under Rule 11 of the Federal Rules of Civil Procedure, an attorney's signature on a pleading is a certification that it is "well grounded in fact." Respondents' denial of liability to INSLAW does not meet that standard. On the contrary, it has been made and maintained without adequate investigation. Pet. ¶ 16; see supra p. 4-5. Therein lies both a breach of respondents' duty of fairness and a breach of Rule 11.

Government attorneys have been sanctioned in much smaller cases for just such abrogations of the duty of fairness. For example, in Joseph v. United States, 121 F.R.D. 406 (D. Haw. 1988), plaintiff sued a military serviceman for negligently causing an automobile accident. The defending Special Assistant to the United States Attorney had in his possession clear evidence of the serviceman's negligence but filed an answer denying any liability for the accident. The court sanctioned the

Justice Department for violating Rule 11 because "this trial could have been appreciably shortened and simplified had the Defendant conceded the liability issue with which it could not in good faith disagree." Id. at 411.

In Assiniboine & Sioux Tribes of Fort Peck Indian Reservation v. United States, 16 Cl. Ct. 158 (1989), a Justice Department attorney was held to have violated the Claims Court's version of Rule 11 by failing to conduct a personal inquiry into the facts before moving to dismiss on the ground that the plaintiffs had not exhausted their administrative remedies. In sanctioning the attorney, the court said:

> The attorney of record must make a prefiling inquiry that is adequate to establish the validity of the facts which are basic to the paper's subject. Agency counsel's version of the facts should not be accepted on faith. Agency operations should be probed sufficiently to determine the validity of the facts relied upon.

Id. at 164. See also Fleming Sales Co. v. Bailey, 611 F. Supp. 507, 519 (N.D. Ill. 1985) (attorney sanctioned under Rule 11 for breaching duty "to confer with the client about the facts -- and not to accept the client's version on faith"); PaineWebber, Inc. v. Can Am Fin. Group Ltd., 121 F.R.D. 324, 331-32 (N.D. Ill. 1988) (defendants' counsel sanctioned for relying on the client's word rather than conduct a pre-filing investigation sufficient to meet the Rule 11 "reasonably inquiry" requirement), aff'd, 885 F.2d 873 (7th Cir. 1989).

In contrast to respondents' strenuous insistence that a court has no jurisdiction to inquire into their failure to

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0255

enforce the criminal laws, even though the failure with which they are charged is the non-investigation of their own malfeasance, they make no such assertion in the case of the duty of fairness. On the contrary, implicitly acknowledging that the observance of this duty is a proper subject of judicial scrutiny, they argue merely that INSLAW's concern on this score "should be raised in the ongoing civil actions, not in a collateral mandamus suit." Resp. Mem. at 29. This point addresses the issue of remedy, not jurisdiction, and is dealt with infra, at 31-35.

Respondents go on to note that "[c]ourts have rejected similar [i.e., to INSLAW's] attempts to convert the ethical duties imposed on government lawyers as officers of the court into a basis for compelling specific prosecutorial acts." Resp. Mem at 29 (emphasis added). With respect, however, to the duty of fairness, INSLAW is not seeking to compel a "specific prosecutorial act." As our petition and supporting memorandum of law make clear, the facts bearing on INSLAW's charges of a criminal conspiracy and the facts bearing on INSLAW's civil claims are the same. This court has jurisdiction, therefore, to compel respondents to make a full and fair investigation of the facts bearing on INSLAW's civil claims.

C. INSLAW's Right to Relief Is a Derivative of the Injuries It Has Suffered

INSLAW's injuries are a consequence of respondents' failure to perform non-discretionary duties, and the continuation of those injuries can be prevented only by respondents' performance of those duties. The foundation of INSLAW's right to

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

seek relief rests on the same footing as its standing to seek mandamus. That the granting of mandamus will provide relief has been shown in the discussion of redressability in part II(C) and is further discussed below in section C of this part. There is left to be dealt with only the new variation on the government's basic theme that is elaborated under the heading, "The Cases Cited By Inslaw Do Not Support Its Right To Relief" on pages 33-37 of their Memorandum of Points and Authorities.

Respondents emphasize the word "ministerial" in an apparent attempt to create the impression that mandamus is available only to enforce some minor, perfunctory, or routine duty. But mandamus originated as a high prerogative writ reserved for matters so important that only the King's Bench could issue it. 52 Am. Jur. 2d Mandamus § 14 (1970). As explained by Lord Mansfield in Rex v. Barker, 3 Burr 1265: "It was introduced to prevent disorder from a failure of justice and defect of police. Therefore it ought to be used in all occasions when the law has established no specific remedy, and where in justice and good government there ought to be one." Bouvier's Law Dictionary 748 (Baldwin Law Publishing, 1940).

INSLAW's allegations plainly show a right to prevent a "failure of justice." The duty to provide justice in the circumstances at bar is "ministerial" only in the sense that it is non-discretionary. That, not the fact that they involved statutory duties, is the relevance of Roaring Springs v. Andrus, 471 F. Supp. 522 (D. Or. 1978); Caswell v. Califano, 435 F. Supp.

127 (D. Me. 1977), aff'd, 583 F.2d 9 (1st Cir. 1978); and McNutt v. Hills, 426 F. Supp. 990 (D.D.C. 1977). Resp. Mem. at 36-37; Pet. Mem. at 9.

D. INSLAW Has No Alternative Means of Obtaining Relief from the Justice Department.

1. DOTCAB Proceedings Do Not Offer An Alternative Means of Relief

Respondents argue that INSLAW has adequate alternative means of relief through the litigation pending before the Department of Transportation Contract Appeals Board ("DOTCAB"). Resp. Mem. at 37-40. If the point is seriously meant, it can only be because respondents are mistaken as to the scope of that litigation.

The only INSLAW contract claims now pending before DOTCAB are those listed by respondents in their Memorandum of Points and Authorities at pages 7 and 38-39. These claims were not asserted in the Bankruptcy Court, are not pending on appeal, and will not be reached in any eventual hearing in this Court.

The contractual claims pending before DOTCAB, moreover, do not involve the issues raised in INSLAW's petition for mandamus. The disputes that gave rise to their claims were "sham" in the sense that they were part of the scheme, already found as a fact, to push INSLAW into bankruptcy. The Department's motives for withholding payments due to INSLAW are not important to INSLAW's proof of its entitlement to recover the withheld amounts. Just that, in fact, is respondents' position in DOTCAB, although not in this proceeding. In contradiction of

their contention that INSLAW is free to pursue discovery in DOTCAB as to matters raised in its mandamus petition, respondents objected to any discovery in DOTCAB bearing on government conduct or motives. For example, when in November 1989 INSLAW requested documents pertaining to James Knapp and Miles Matthews, DOJ responded: "DOJ also objects to this request to the extent it requests documents pertaining to James Knapp and/or Miles Matthews on the ground that . . . these requests relate solely to INSLAW's claims of 'bad faith' in the administration of Contract No. JVUSA-82-C-0074 . . . ." Respondents' Response to Appellants' Request for Production of Documents (February 12, 1990) at 6.

Respondents argue that Cartier v. Secretary of State, 506 F.2d 191, 199 (D.C. Cir. 1974), cert. denied, 421 U.S. 947 (1975), and Fox v. Harris, 488 F. Supp. 488, 492-93 (D.D.C. 1980), support their argument that the civil proceeding and the DOTCAB proceeding offer INSLAW alternative means of relief. Resp. Mem. at 40. In both Cartier and Fox, however, the plaintiffs had access to statutory relief almost identical to the relief that mandamus would afford. In Cartier, plaintiff could have regained his American citizenship through "a judicial declaration of nationality under 8 U.S.C. § 1503," as "the statutory remedy was intended for cases precisely of this kind." Cartier, at 200. Similarly, in Fox the plaintiff could have brought his suit against the HEW for unpaid medicare bills in the Court of Claims under 28 U.S.C. § 1491. Fox, at 492.

Neither the availability of discovery nor the pendency of INSLAW's contractual claims before DOTCAB affords alternative means of obtaining relief from the Department of Justice. Nor can the continued pursuit of the claims arising from respondents' attempts to destroy INSLAW and to acquire its software ever be an adequate substitute for the investigation -- whether criminal or civil -- that respondents should long since have conducted and should now be required to conduct. The only way of making this happen is through the issuance of a writ of mandamus.

2. The Pending Suit Does Not Offer an Alternative Means of Relief.

Having addressed respondents' misunderstanding as to the adequacy of discovery in the DOTCAB proceedings, we now turn to their representations as to its adequacy in the lawsuit now on appeal from this Court. INSLAW, it suggests, is attempting for the mere benefit of its own civil claims to obtain "the advantages of the 'unique array of investigatory powers and resources' available to the government." Resp. Mem. at 39 (citing Pet. Mem. at 19). Respondents are again mistaken. INSLAW's only aim is to compel respondents to carry out duties which are not only uniquely theirs but which, because of the availability to them of those powers and resources, they are uniquely equipped to perform. INSLAW can never obtain from reluctant Departmental employees by discovery the information that they were unwilling to give to the Senate Permanent Subcommittee on Investigations. See supra p. 6. INSLAW can never give the sources who have asked to have their names

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

withheld the assurances that only respondent Thornburgh can offer. Pet. Exh. B, ¶¶ 4(b), 4(i), 4(q), 4(s) and 5.

Discovery is a weak instrument for prying open a Department that will not communicate with INSLAW's counsel (Pet. ¶ 19), that has tried to conceal the dependence of Project Eagle on PROMIS (Pet. ¶ 13), that is trapped by a conflict of interest (Pet. Mem. at 6), and whose reaction to INSLAW's changes has been, in the words of the Bankruptcy Court, "to circle the wagons" (Pet. Mem. at 7).

Although respondents remark that INSLAW is incorrect in contending that the Department deliberately sought an order to block discovery in the second phase of the lawsuit, the record shows otherwise. On October 21, 1987, INSLAW filed a motion for an order setting a timetable for discovery and for hearing the remaining issues to be tried. Motion of INSLAW for Scheduling Order at 3. Five days later, on October 26, 1987, DOJ opposed the motion, stating that "no further scheduling of trials and discovery in this adversary proceeding should occur pending completion of the appellate process." Defendant's Opposition to Motion of INSLAW for Scheduling Order at 3-4.

Can the Department of Justice seriously mean to insist that it is relieved as a matter of law from investigating wrongdoing under its own roof because the plaintiff in a lawsuit has access to discovery? That, we submit, would be to assert that the law cannot be enforced against the department charged with enforcing the law -- a plainly untenable position.

CONCLUSION

For all the foregoing reasons, this Court should deny respondents motion to dismiss, and should issue a writ of mandamus compelling respondents to conduct a fair and thorough investigation of the matters alleged by INSLAW in accordance with the conditions proposed in petitioner's prayers for relief.

Dated: Washington, D.C.
April 17, 1990

Respectfully submitted,

MILBANK, TWEED, HADLEY & McCLOY

By: Elliot L. Richardson

Elliot L. Richardson
D.C. Bar. No.: 308710
1825 Eye Street, N.W.
Washington, D.C. 20006
(202) 835-7500

William E. Jackson

William E. Jackson
D.C. Bar No. 110692
1 Chase Manhattan Plaza
New York, New York 10005
(212) 530-5000

Attorneys for Petitioner
INSLAW, Inc.

Of Counsel:

Charles R. Work

Charles R. Work
D.C. Bar No.: 61101
McDermott, Will & Emery
1850 K Street, N.W.
Washington, D.C. 20006
(202) 887-8000

INSLAW, Inc
1125 15th St. N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

DAINJPR-06

COPY

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

INSLAW, INC.,	:	
Petitioner,	:	
v.	:	Civil Action No. 89-3443 (WBB)
DICK THORNBURGH, as Attorney General of the United States, and UNITED STATES DEPARTMENT OF JUSTICE,	:	
Respondents.	:	

AFFIDAVIT OF WILLIAM A. HAMILTON

WILLIAM A. HAMILTON, being duly sworn, deposes and says:

1. I am President and Chairman of the Board of Directors of INSLAW, Inc. ("INSLAW"). I have held these positions since the inception of INSLAW's business operations in January of 1981. In my capacity as President and Chairman of the Board, I am responsible for overseeing, coordinating and directing INSLAW's bankruptcy proceedings, litigation strategy, and investigative efforts regarding INSLAW's dispute with the United States Department of Justice ("DOJ"). As the individual responsible for the above described efforts, I have knowledge of the detailed facts set forth below.

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

2. In Section D(6) of my Affidavit (attached to the petition for a Writ of Mandamus as Exhibit B), I stated as follows:

> Beginning on December 11, 1989 INSLAW attempted to recontact each of the approximately 30 witnesses mentioned in this Affidavit to see if any of them has ever been contacted about INSLAW by DOJ. As far as we could determine, only one has been approached. Two representatives of the Department of Justice interviewed Judge Jane Solomon.

The second sentence of the above quote should be deleted and replaced with the following sentences: "By January 2, 1990, INSLAW had recontacted all 29 of the witnesses who had not previously been contacted by DOJ. Each of the 29 confirmed that no one from DOJ has ever even attempted to interview him or her about INSLAW."

William A. Hamilton

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

INSLAW, INC., Petitioner, v. DICK THORNBURGH, as Attorney General of the United States, and UNITED STATES DEPARTMENT OF JUSTICE, Respondents.	Civil Action No. 89-3443 (WBB)

PETITIONER'S REQUEST FOR ORAL ARGUMENT ON RESPONDENTS' MOTION TO DISMISS THE PETITION FOR A WRIT OF MANDAMUS.

INSLAW respectfully requests oral argument on these matters at the Court's earliest convenience.

Dated: Washington, D.C.
April 17, 1990

Respectfully submitted,

MILBANK, TWEED, HADLEY & McCLOY

By: _____
Elliot L. Richardson
D.C. Bar. No.: 308710
1825 Eye Street, N.W.
Washington, D.C. 20006
(202) 835-7500

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

BDEIN/PR-06

April 23, 1990

PRESS RELEASEPRESS RELEASE***PRESS RELEASE***

Office: (202) 828-8600
Home: (301) 299-2870

INSLAW today filed a bid protest at the U.S. Department of Justice challenging the legality and propriety of a pending procurement for case management software. The procurement in question is Request for Proposals (RFP) No. JPLDN-90-R-0020, issued by the Justice Department on January 30, 1990 for new case management software to replace INSLAW's proprietary PROMIS case management software in the Justice Department's Land and Natural Resources Division.

The INSLAW bid protest charges that the pending procurement is a thinly disguised effort by the Justice Department to convert the PROMIS software to a new format in an effort to escape its obligation to purchase licenses from INSLAW. INSLAW further charges that this thinly disguised conversion plan is a violation of the permanent injunction issued by the U.S. Bankruptcy Court in January 1988 and upheld on appeal by the U.S. District Court for the District of Columbia. That injunction prohibits the Justice Department from expanding the use of PROMIS and from converting PROMIS for operation on other platforms.

INSLAW characterizes the pending procurement as "an outgrowth of a continuing bias against INSLAW which has been fueled by a lack of regard for INSLAW's legitimate proprietary rights in case management software now installed in the Department of Justice." According to the INSLAW protest, Justice Department conduct in the pending procurement raises "the disturbing possibility that the DOJ's purpose is not to develop PROMIS-like software, but to steal it."

The Justice procurement (1) seeks a vendor that has recent and extensive experience working with the PROMIS software; (2) to develop a new case management software system that contains all of the functions and features of PROMIS; (3) that will replace PROMIS; and (4) for which the Government will own exclusive title.

The Justice procurement (5) fails to provide a detailed design specification for the new case management software but (6) requires that the vendor bid the development on a firm fixed price basis and (7) complete the development and installation within twelve months of contract award.

In a written response to a bidder's question, published by Justice to all bidders, Justice alluded to the real design specification for the new software: "The Land Division has concluded that PROMIS experience is one of the most critical factors in developing the new system."

Without such an illicit conversion of PROMIS, the amount of time required for a vendor to develop a new case management software system would be about three years, according to an August 25, 1989 letter from the Justice Department to the General Services Administration. In that letter, Justice acknowledged that the permanent injunction would prevent Justice from converting INSLAW's PROMIS software.

In preparation for the procurement, Justice commissioned a market survey by Planning Research Corporation to assess the availability of existing case management software, either within Justice itself or in the commercial marketplace, to satisfy the Land Division requirement. This market research study failed to acknowledge the existence of the PROMIS software or of INSLAW, Inc. in reaching its conclusion that no software existed that could satisfy the Land Division requirement. The omission of PROMIS is remarkable in light of the fact that it is the most widely used case management software product in the Justice Department, and that the functions and features mandated for the new case management software match the current functions and features in PROMIS.

INSLAW President William A. Hamilton issued the following statement: "This pending procurement exposes the hypocrisy of the Justice Department's request to the U.S. Court of Appeals for appointment of a neutral mediator to resolve the disputes between INSLAW and the Justice Department. What is needed instead of a neutral mediator is an honest cop."

INSLAW has pending before Senior U.S District Judge William B. Bryant, Jr. a Petition For A Writ Of Mandamus to compel Attorney General Dick Thornburgh and the U.S Department of Justice to conduct a fair and thorough investigation of the malfeasance against INSLAW already found by the U.S. Bankruptcy Court and affirmed on appeal by Senior Judge Bryant. According to Mr. Hamilton, "the failure of the Justice Department to investigate and discipline the officials who committed the malfeasance against INSLAW, when combined with the transparently fraudulent nature of the current procurement, underscores the urgency of court intervention to correct the obvious breakdown in law and order in the U.S. Department of Justice."

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005

INSLAW, Inc.
1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755
William A. Hamilton, President

FOR BACKGROUND PURPOSES ONLY

MEMORANDUM

BD[IN]PR-07

DATE: May 3, 1990

TO: The Record

FROM: William A. Hamilton

RE: ***The Criminal Division's May 25, 1990 Request For Proposals Implicitly Confirms That The Absence Of The Case Management Software For the EAGLE Computers Is Necessitating The Purchase Of Redundant Computers By The Criminal Division***

On August 25, 1989, Justice sought a Delegation of Procurement Authority from the General Services Administration explicitly related to the impact on the U.S. Attorneys' Offices of the unavailability of case management software for immediate installation on the new EAGLE computers. Justice ascribed the unavailability to the U.S. Bankruptcy Court's permanent injunction prohibiting Justice from expanding the use of PROMIS or converting the existing copies of PROMIS for operation on new computers.

Justice told GSA that as a result of the injunction, Justice will need three years to develop case management software to replace PROMIS for installation on the EAGLE computers, and that, in the meantime, Justice will need to purchase $4 million worth of new Prime computers to continue operating PROMIS in the 42 largest U.S. Attorneys' Offices. The 42 largest U.S. Attorneys' Offices had been operating PROMIS on older Prime computers that the manufacturer no longer supports. By purchasing new computers of the same make, Justice would avoid violating the injunction.

In the EAGLE RFP, Justice had stated that it would develop, outside of the EAGLE procurement, a new case management software system, to replace PROMIS and to be installed on the EAGLE computers in the 94 U.S. Attorneys' Offices. Justice also stated in the EAGLE RFP that the existing case management systems

In both the Criminal and Tax Divisions would be migrated or converted from the IBM mini-computers, on which the case management systems were then operated in those divisions, to the new EAGLE computers by the 13th month following the award of the EAGLE contract. Justice advised the EAGLE bidders to plan on disposing of the IBM computers during the 13th month.

In a May 25, 1990 Request for Proposals (JXCRM-90-R-0042), the Criminal Division reveals that it too has been buying redundant new computers and support services, also apparently because of the unavailability of case management software for the new EAGLE computers.

In the new Criminal Division RFP, Justice seeks a facility management contractor, for a contract whose duration may be as long as five years, to support two types of computer systems: (1) the new EAGLE computers made by Data General; and (2) two existing Criminal Division computers, made by IBM, which the RFP states are being used to operate the Criminal Division's case management system.

In the new Criminal Division RFP, Justice reveals that the second IBM computer, an AS/400, was recently purchased to replace the older IBM computer, a System 38, and that the Criminal Division then kept the older System 38 as a back-up computer for the AS/400.

The new Criminal Division RFP fails to mention the following points that Justice made in the May 1986 RFP for Project EAGLE: (1) most of the capacity on the new EAGLE computers for the Criminal Division is earmarked for operating the Criminal Division's case management system; (2) the Criminal Division's case management system was to be migrated or converted from the IBM computer(s) to the new EAGLE computers by the 13th month after the award of the EAGLE contract; and (3) the Criminal Division's IBM computer(s) would be disposed of during the 13th month after award of the EAGLE contract.

The Criminal Division, like the U.S. Attorneys' Offices, has decided to purchase redundant new computers to continue operating existing case management systems, and to leave unutilized, apparently for several years, the primary capacity of the EAGLE computers; i.e., the on-line storage and core memory capacity specifically acquired on each EAGLE computer for the operation of case management systems. This means that most of the capacity of the Criminal Division's EAGLE computers will be wasted for the next several years.

Justice has admitted in its August 1989 correspondence with GSA that the three year delay in implementing case management systems on the EAGLE computers in the 94 U.S. Attorneys' Offices is related to the Bankruptcy Court's permanent injunction on PROMIS. The fact that the Criminal Division has also delayed its schedule for implementation of case management systems on the EAGLE computers supports an inference that the Criminal Division had also planned to use PROMIS, and that its plans have similarly been frustrated by the permanent injunction. The fact that Justice mandated COBOL compilers for all EAGLE computers, whether for the U.S. Attorneys' Offices or any other components of Justice, in the August 1986 Amendment to the EAGLE RFP, and that Justice later admitted in U.S. District Court that this COBOL compiler requirement was issued to give Justice the option of installing the PROMIS case management software on the EAGLE computers, provides further support for this inference.

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

MEMORANDUM

BD|IN|PR-08

DATE: July 10, 1990

TO: The Record

FROM: William A. Hamilton

RE: ***Justice Department Spokesman States That INSLAW, Not Tisoft, Is Under Investigation By House Judiciary Committee***

Stephen R. Colgate, Deputy Assistant Attorney General, was quoted in the July 6, 1990 issue of the Northern Virginia Business Journal as stating that when House Judiciary Committee Chairman Jack Brooks issued a recent statement referring to allegations that project EAGLE had been wired for an incumbent vendor, he was referring to INSLAW, rather than Tisoft.

According to the press article, Colgate also stated that "absolutely, positively, and unequivocally, there is no connection" between INSLAW and the EAGLE project.

At the time that the EAGLE RFP was issued in May 1986, the Justice Department was colluding with Systems and Computer Technology to do a hostile takeover of INSLAW. In 1985, the Justice Department had mounted a covert operation to liquidate INSLAW. That covert operation failed, giving rise to the hostile takeover attempt in May 1986. It offends common sense to hear a Justice Department official claim that the House Judiciary Committee is investigating whether the May 1986 EAGLE RFP was wired for INSLAW.

In August 1989, Mr. Colgate's Justice Management Division wrote to the General Services Administration about the connection between Project EAGLE and PROMIS. In that letter, the Justice Department stated that it was precluded from converting the PROMIS software for operation on the EAGLE computers by a permanent injunction issued by the U.S. Bankruptcy Court for the District of Columbia against expanding the use of PROMIS beyond the 42 largest U.S. Attorneys' Offices which were already operating PROMIS; the Justice Department further stated that it would therefore need to take three years to develop and install new case management software for the EAGLE computers. The Justice Department, in the same letter, requested a Delegation of Procurement Authority to buy $4 million

of new PRIME computers to continue operating PROMIS in the 42 largest U.S. Attorneys' Offices until the new case management software is developed, since the older model PRIME computers on which PROMIS had been operating, had become obsolete.

In the EAGLE RFP, Justice had told the bidders that the new EAGLE computers would replace the older PRIME computers by the 13th month after the award of EAGLE. The 13th month has come and gone. Justice is not only buying new EAGLE computers from Data General for the 42 largest U.S. Attorneys' Offices but also buying new PRIME computers for the same 42 offices. The reason is obviously that the injunction on PROMIS has prevented Justice from installing PROMIS on the new EAGLE computers, as Justice had planned, and forced it to spend three years to develop and install replacement case management software.

Northern Virginia Business

Vienna firm caught in congressional probe

By WALTER R. DEVINE
Journal staff writer

A congressional committee and the U.S. Department of Justice are pitted against each other over allegations of bid rigging on a $76 million contract awarded to a Vienna computer company.

Tisoft Inc. stands to lose a significant part of the contract it was awarded a year ago to equip 94 U.S. attorney's offices nationwide with word processing and office support equipment similar to that used by private law firms.

U.S. Rep. Jack Brooks, D-Texas, chairman of the House Judiciary Committee, said the investigation began nine months ago, when "the committee received allegations that the project — known as Eagle — had been 'wired' by Justice officials for an incumbent vendor," meaning Tisoft, according to a statement by Brooks last month, records show.

Incumbent vendor is a term used to describe a company doing business with a federal agency at the time of bidding.

But a Justice Department spokesman said the Judiciary Committee is referring not to Tisoft but to a Washington-based computer software firm.

Deputy Assistant Attorney General Stephen R. Colgate, in an interview Tuesday, said the "incumbent vendor" Brooks referred to is Inslaw Inc., which reportedly is the target of another Judiciary Committee investigation.

According to published reports, the committee is looking into what has come to be known as the "Inslaw affair." Federal judges ruled during the 1980s that the Justice Department illegally tried to misappropriate — or pirate — Inslaw's software.

Colgate said, "Absolutely, positively and unequivocably, there is no connection" between Inslaw and the Eagle project.

It is unclear whether the Judiciary Committee is comparing the two software systems developed by the two companies. Colgate said the two systems are not designed to perform the same function.

Brooks has not called for abrogating the contract. However, he has recommended that funding for the project be kept to $12 million for fiscal 1990. The Justice Department had requested $23 million.

"The $12 million figure would allow the contract to continue, but at a slower, more prudent pace," Brooks told the committee in writing last month. "In the end, however, we may have to kill this project."

A spokesman for Brooks said the congressman has a policy of not commenting on investigations in progress.

Brooks' statement charges that the project not only is experiencing cost overruns, but also schedule changes and numerous equipment modifications. Brooks said all were "signs of a procurement [project] in trouble."

Colgate said the increased costs, equipment and schedule changes were because of the insertion of updated technology into the contract.

Tisoft President John Oaks said he would like more specifics on the committee's allegations. "There's no details that have been given by the committee or anyone as to what those three things are," Oaks said.

But he questioned the motives behind the investigation. "There's an agenda pushing the committee. I just don't know what it is. There's a long history between the Department and Congress," Oaks said. "It's an agenda we don't appreciate," he said.

Brooks' statement said the project's $76 million price tag "may be greatly exceeded" as a result of the changes. With all options, Colgate said, the project could cost $200 million.

Oaks said he didn't know what effect the lower appropriation would have on the Eagle project or Tisoft as a whole. He said a large part of the work done by Tisoft's 120 employees comes from the contract.

Work on the Tisoft contract has already started and nearly 3,500 work stations, a third of the project, will be installed by September.

Oaks and Colgate said those workstations already installed have been well received and that they have high hopes for the Eagle project, because it is so important in combatting problems that are "headline issues," such as the HUD scandal, drug traffickers and S&L investigations.

Because the funding for the project is unauthorized, the final recommendation on how much money the Eagle project will get lies in the hands of a conference committee made up of House and Senate members. From there the recommendation will go, as part of a larger bill, to both houses for a vote, a process that could take several months, Capitol Hill sources said.

OFF THE RECORD

CONFIDENTIAL

CONFIDENTIAL

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

M E M O R A N D U M

BDIIN|PR-09

DATE: July 18, 1990

TO: The Record

FROM: William A. and Nancy B. Hamilton

RE: *An Assessment Of Michael Riconosciuto And His Claim That INSLAW's Problems At The Justice Department Had Their Origin In A Decision By Ronald Reagan To Provide A Financial Reward To Earl Brian For An Intelligence Contribution To The 1980 Election Victory*

May 18.

Background:

The Wackenhut Corporation is a private security company listed on the New York Stock Exchange. During the 1980's, its Board of Directors included former directors of every major U.S. intelligence agency including the FBI, the CIA, the NSA, and the DIA. William Casey, Reagan's Campaign Manager in 1980, was also outside counsel for Wackenhut in 1980. Wackenhut is headquartered in Coral Gables, Florida, and has subsidiaries in many foreign countries, including Saudi Arabia.

In 1980, The Wackenhut Corporation hired Michael Riconosciuto as the Director of Research for a joint venture that Wackenhut was then setting up with the Cabazon Indian Tribe on their reservation in the California desert.

The purpose of the joint venture was to develop and manufacture weapons for the Contras in Nicaragua, and also to export weapons to other countries including Saudi Arabia. Among the items planned for manufacture on the Indian Reservation were machine guns, night-vision goggles, "air-fueled device" bombs, and even bacteriological warfare weapons.

The Cabazon Indians are a "sovereign nation" that comprises about 24 Indians located on a reservation in the California desert near Indio, California.

Fellow workers of Riconosciuto at the joint venture have described him as an expert in electronics, physics and chemistry and as someone known to intelligence and security officials in Allied countries as "the best in the business" of high technology weapons R&D. Riconosciuto is said to be very knowledgeable about nuclear weapons, laser technology and computer software. About 10 years before Wackenhut hired him as the Director of Research for this joint venture, Riconosciuto was convicted and incarcerated in a federal penitentiary for the manufacture and distribution of illicit chemical drugs.

Earl Brian, at age 30, became Secretary of Health under Governor Reagan, at the start of Reagan's second term in 1970. After a promotion to Secretary of Health and Welfare, Brian spearheaded the welfare reform program that eventually became the hallmark of the Reagan Governorship. Brian was considered a political insider in the Sacramento Administration of

Governor Reagan and a close confidante of Edwin Meese, Michael Deaver, and Lyn Nofziger. When Meese was nominated as Attorney General in January 1984, his undisclosed business and financial ties to Earl Brian became the central issue in an investigation of Meese by Independent Counsel Jacob Stein. Brian heads Infotechnology, Inc. of New York City, formerly known as Biotech Capital Corporation. Through that company, Brian controls several other companies including Financial News Network, United Press International, and Hadron, Inc. of Fairfax, Virginia. Brian is a neurosurgeon who has not practiced medicine since serving as a military doctor in Vietnam for two years in the late 1960's.

In a two-and-one-half hour telephone conversation with us on May 18, 1990, Michael Riconosciuto claimed that INSLAW's problems with the U.S. Department of Justice had their origin in a decision by Ronald Reagan to provide a financial reward to Earl Brian for an intelligence contribution to the 1980 election victory.

The essence of Riconosciuto's claims to us is as follows:

- William Casey, while serving as outside counsel for Wackenhut, arranged for the Wackenhut Research Corporation, a subsidiary that then served as a CIA "cut out," to hire Earl Brian and Michael Riconosciuto in 1980 as contract employees for an intelligence mission to Iran.

- Riconosciuto did the electronic funds transfer work and Brian "carried the codes." They transferred more than $40 million to "certain elements in Iran" to prevent a deal with the Carter Administration to release the American hostages prior to the election.

- Saudi Arabia's Royal Family provided the approximately $40 million in bribe money. The arrangements were made through Fahim Safar, a financial advisor to the Royal Family, and Prince Bandar Bin Sultan, Saudi Arabia's Ambassador to the United States.

- The Israeli Government was also involved by providing technical assistance to Iran on the proper use of U.S military technology that Iran had acquired under the Shah. The decimation of Iran's officer corps during the revolution had left Iran in desperate need of such technical assistance.

- A "Judge Fairhurst" (phonetic) was also involved in the matter, although Riconosciuto did not further identify this person nor elaborate on his role.

- For the mission to Iran, Earl Brian liaised with George Pender, whom we have later discovered was Chairman of the First Intercontinental Development Corporation (FIDCO). According to Riconosciuto, FIDCO had Saudi Royal Family money for rebuilding Beirut, and Mr. and Mrs. Ronald Reagan owned shares in FIDCO through proxies held by George

Pender, his daughter, Deborah, or Michael McManus[1]. According to Riconosciuto, a similar arrangement was used for stock ownership by Mr. and Mrs. Reagan in other corporations, including Wedtech, Northrop and FMC.

- The Saudi money came from an account in a Credit Suisse bank affiliate in Georgia; the money was subsequently laundered thorough bank accounts belonging to universities that receive R&D grants from NASA.

- Riconosciuto saw documents in the law offices of former U.S. Senator James Abourezk and Glenn Feldman in which the INSLAW-related payoff to Earl Brian was "chiseled in stone."

- Riconosciuto's Los Angeles attorney, Donald Wager, "handled correspondence" reflecting the INSLAW-related payoff to Brian.

- Others who know the whole story of the intelligence mission to Iran and the INSLAW-related payoff to Brian are Charles Carter, who headed the division of NASA that awarded R&D grants to universities; and John Van Dewerker, a former CIA employee who left the CIA to head a CIA "cut out," known as Intersect, that was based in Orange County, California and that was also involved with the Wackenhut-Cabazon joint venture.

- Intersect was folded when Congress began focusing on possible Reagan Administration violations of the 2nd Boland Amendment.

- "Earl Brian cold turkey violated currency laws. I never carried any cash out of the country."

- "Brian made several trips to Iran in 1980, 1981, and possibly 1982."

Since the May 18, 1990 telephone conversation with Riconosciuto, INSLAW has obtained some corroboration of the alleged link between the INSLAW problems at the Department of Justice and the Iran/Contra scandal. The corroboration is based on our discussions with a former colleague of Riconosciuto on the Wackenhut/Cabazon joint venture, a person who is sharply critical of Riconosciuto. This source, who also served on the Board of Directors of FIDCO and who claims to have participated in meetings at The White House, claims to be totally disillusioned with the Republican Party because of his Iran/Contra experience. The source told us that a group of Europeans, alarmed at what was happening in the United States with the Iran/Contra affair, assembled a very large repository of classified documents relating to the Iran/Contra affair from U.S. and Allied intelligence and security agencies. After reading INSLAW's Petition For A Writ Of Mandamus and interviewing us on the telephone, this source claims to have written to the people who control this document repository in Switzerland. This source claims that "my people" responded

---

[1] Michael McManus served as Deputy to Michael Deaver in the Reagan White House. He also served on the Board of Directors of FIDCO.

to the letter of inquiry by informing this source that they "know all about" the INSLAW matter. The people in Switzerland also asked the source to find out from us whether we have ever been threatened in the course of the INSLAW scandal. This source also told us that we "may be receiving some documents in the mail from abroad."

Riconosciuto's motives for making his disclosures are not clear, but from remarks that he made to us and based on information that we have obtained from others who know Riconosciuto, his motive could either be "to get even" or "to get leverage" against former allies in the federal government whom Riconosciuto claims are currently harassing him.

Assuming that Riconosciuto spoke truthfully, the INSLAW case could provide powerful ammunition for either motive because of the two federal court rulings, the detailed documentation of a conspiracy reaching into The White House that is contained in the Mandamus lawsuit, the pending House Judiciary Committee investigation, and the extensive press coverage.

As to "getting even," Riconosciuto said that he had gone from being regarded as a VIP in the Republican Party to being regarded as nothing more than a "gun runner" or a "rogue." We have learned from other sources that Riconosciuto once claimed to believe that The Wackenhut Corporation was complicit in the execution-style murder of Paul Marasca in San Francisco in January 1982. Marasca had been Riconosciuto's business partner in Recovery Technology, Inc., and both Riconosciuto and Marasca had been family friends since a young age. So, if Riconosciuto is seeking to get even, his target could well be the Wackenhut Corporation.

As to "getting leverage" over his former allies in the federal government, Riconosciuto told us that all he wants is peace and that, if he is allowed to live in peace, he will "submerge" himself for the rest of his life. He said that he is constantly being harassed by law enforcement. He claimed to have "notes and correspondence," and he also claimed to have a secretly-made tape recording of a meeting he had with CIA Director William Casey at a country club in 1983. Riconosciuto referred to this tape recording as his "insurance." He said that unless the harassment stops, he is "ready to blow." Presumably, Riconosciuto could seek to use the leverage of the connection between the INSLAW case and the methods allegedly used by the Reagan/Bush campaign to assure victory in the 1980 election in order to force an end to the harassment of Riconosciuto by law enforcement authorities. Riconosciuto told us "I was a [Republican] Party Indian and a believer then. I have since come to a new awareness. I have been harassed."

We told Riconosciuto that we needed to be able to prove his assertions in a court of law. He said that his and Earl Brian's passports will each reflect the trip to Iran in 1980; that he has or can obtain copies of the 1099 tax forms showing that Riconosciuto and Brian were each contract employees of Wackenhut Research at the time of their trip to Iran in 1980; that he has a photograph of Brian and Riconosciuto together in Iran in 1980; that Los Angeles lawyer Donald Wager "handled correspondence" reflecting the PROMIS[2]-related payoff to Earl Brian for the 1980 mission to Iran; that former United States Senator James Abourezk and his then law partner or associate, Glenn Feldman, each have documents in which the PROMIS-related payoff to Earl Brian is "chiseled in stone;" that Abourezk, Feldman, John Van Dewerker (described as a former CIA official who left the

---

[2] PROMIS is the name of a proprietary legal case management software product manufactured by INSLAW, Inc. PROMIS (Prosecutor's Management Information System) software is currently operating on computers in each of the 42 largest U.S. Attorneys' Offices nationwide.

CIA to head Intersect, an alleged CIA proprietary in Orange County, California), and Charles Carter (described as the head of the University R&D grants division of NASA) each knows the whole story of the 1980 mission to Iran and its connection to INSLAW's problems at the Justice Department.

Since the May 18, 1990 telephone conversation, we have talked to two persons who worked with Riconosciuto in the early 1980's on the Wackenhut/Cabazon joint venture in the California desert near Indio, California (one is the retired president of a munitions company whom Wackenhut recruited to head a planned munitions factory on the Indian Reservation; and the other was a member of the Board of Directors of the First Intercontinental Development Corporation (FIDCO) whom Wackenhut recruited "from abroad" to work on the Indian Reservation projects on the grounds that the projects were essential to the U.S. national security).

We have also talked to reporters who had interviewed Riconosciuto in the past about other matters: Steve Pizzo and Mary Fricker who interviewed Riconosciuto in December 1987 in connection with research on Inside Job, their book on the savings and loan scandal; and Douglas Vaughn, Jr., a free-lance writer who interviewed Riconosciuto for three days in 1989 about his knowledge of FBI actions to collect evidence against a Denver, Colorado, businessman named Kilpatrick for use in a $300 million tax fraud prosecution. We have also talked to a newspaper reporter in Takoma, Washington, Riconosciuto's home town, who read to us copies of old newspaper articles about Riconosciuto as a child prodigy who developed sophisticated electronics experiments, beginning as early as age 10, when Riconosciuto wired his parents' neighborhood for an alternative telephone system.

According to the co-authors, Pizzo and Fricker, Riconosciuto displayed highly credible insider knowledge of aspects of the savings and loan scandal, including money laundering by both organized crime and the CIA through savings and loan institutions; told them about Wackenhut's connection to the CIA and Casey's connection to Wackenhut; and told them a bizarre story, which they later independently confirmed, about Riconosciuto's role in equipping AWAC aircraft destined for Saudi Arabia with sophisticated radar technology that the United States Congress, at the urging of Israel, had proscribed for the sale to Saudi Arabia.

According to the free-lance reporter, Vaughn, Riconosciuto displayed detailed knowledge, later independently confirmed as accurate, of FBI penetration of Kilpatrick's company by a one-time Wackenhut employee for the purpose of surreptitiously removing copies of computer tapes to aid the FBI's investigation of Kilpatrick for possible tax shelter fraud.

We talked to a lawyer who represented Kilpatrick; this lawyer corroborated the account. This lawyer explained that Judge Kane, the federal district judge, had dismissed the prosecution, and had ordered copies of transcripts of the grand jury proceedings given to the defense for possible use in a lawsuit against the Government.

We made contact with a current Assistant Administrator of NASA who not only confirmed that Charles Carter had headed the University R&D grants division of NASA until 1985 or 1986, but who also claimed that Carter and a colleague, by the name of Richey, had operated in the "black" world and had engaged in very questionable financial transactions with university grantees. According to this Assistant Administrator, the NASA Inspector General had declined to investigate the allegations about financial irregularities on the part of Carter and Richey on the grounds that it would not be "cost effective" to investigate.

We obtained copies of newspaper articles about Riconosciuto's conviction for drug trafficking in Seattle at the age of 24; about Riconosciuto's work, while President of Hercules Research Corporation of Contra Costa, California, in 1981, in developing a miniature electric power supply device; about the execution-style murder in San Francisco in January 1982 of Paul Marasca, Riconosciuto's partner in another company, Recovery Technology, Inc.; about several execution-style murders of Indians on the Cabazon Reservation in 1981; and about the failed plan for a joint venture between the Cabazon Indians and Wackenhut to manufacture night vision goggles and machine guns for the Contras, to manufacture munitions, and to obtain guard service contracts with federal agencies under the 8A Set Aside Program for minorities.

We have obtained copies of various statements, interviews with and letters from Riconosciuto, including a draft letter in approximately March or April 1982 to Patrick Moriarty, his financial partner in Hercules Research Corporation; and a 73-page transcript of an interview of Riconosciuto by Ted Gunderson, the retired Special Agent-in-Charge (SAC) of the FBI office in Los Angeles, who is reported to be a close personal friend of Riconosciuto.

Finally, we have obtained a copy of the 1980 Annual Report for The Wackenhut Corporation; a copy of an August 1980 letter from the Saudi Arabian Embassy in Washington to former U.S. Senator James Abourezk relating to Wackenhut's joint venture with the Cabazon Indians; a copy of the letterhead for the First Intercontinental Development Corporation (FIDCO) listing its Board of Directors; and a copy of a letter dated January 27, 1983 from the Stormont Laboratories in Woodland, California, to Dr. John P. Nichols of the Wackenhut/Cabazon joint venture. Stormont Laboratories is the entity that was going to assist the joint venture in its plan to manufacture bacteriological warfare weapons for the Contras.

There are two sharply contrasting images of Riconosciuto that emerge from this research.

One image is of an intellectually gifted person with extraordinary talents in electronics, chemistry and physics. At age 10, Riconosciuto had wired his parent's neighborhood for a new telephone system competing against the pre-divestiture AT&T. In the eighth grade, Riconosciuto won a science fair with a working model of a three-dimensional sonar system. By age 16, Riconosciuto had won so many science fairs with exhibits of laser technology devices that he was invited to become a summer research assistant in the Cooper Vapor Laser Laboratory at Stanford University, working directly for Professor Arthur L. Schawlow. This was in the 1960's. In 1981, Professor Schawlow won a Nobel Prize for laser spectroscopy.

In the early 1980's, Riconosciuto served as Director of Research for the Wackenhut/Cabazon joint venture. Riconosciuto was in regular telephone communication with Bobby Inman, then Deputy Director of the CIA, during these years, according to the former FIDCO board member who worked with Riconosciuto for two years on the joint venture project. The retired munitions company president recalls a visit to Riconosciuto at the desert joint venture facility by a U.S. Admiral specializing in ordnance. Riconosciuto also met with Contra leaders such as Eden Pastora at the joint venture facility, according to the retired munitions executive and published press accounts.

One of Riconosciuto's projects involved the development of a new type of bomb, known as an air-fueled device, which reportedly can pack the force of an atomic blast, according to the retired munitions executive. This technology was reportedly pioneered by the Russians. An air-fueled device made in Bulgaria was used to blow up the U.S. Marines in Lebanon, according to the same witness. Riconosciuto displayed an intimate familiarity with the principal Russian-language

publications on this new technology, according to the same witness. According to the transcript of Gunderson's interview with Riconosciuto, Riconosciuto had also conducted R&D work relating to the latest state-of-the-art isotope separations used in producing hydrogen bombs and to the guidance systems for ballistic missiles. Riconosciuto also claimed, in the same Gunderson interview, that by 1981 he had developed and had actually working, a "600 megawatt, transversally excited, chemical, gaseous, dynamic laser; a battlestar gallactica piece of hardware."

In addition to this weapons-related R&D, Riconosciuto was engaged during the same period of the early 1980's in high-tech commercial R&D. As President of Hercules Research Corporation in the Bay area, Riconosciuto had invented a new miniaturized power supply technology, a tissue-box size device designed specifically to feed 30,000 volts of electricity to another device that cuts heating and cooling time in certain production processes by 40%, according to published press accounts. By August 1981, Hercules Research had acquired 11 patents on this new technology, and the popular press was promoting the idea that Hercules would some day be synonymous with the Silicon Valley.

The other, sharply contrasting image of Riconosciuto that emerges from this research is of a person engaged in sophisticated criminal enterprises in three fields: (1) illegal drug manufacturing and distribution (2) gun running to "unfriendly governments," and (3) "illegal financial manipulations." Riconosciuto is also suspected by some law enforcement officials of complicity in the execution-style murder of his business partner and possibly others, according to some of the reporters whom we interviewed.

One bridge between these two contrasting images of Michael Riconosciuto is the Wackenhut Corporation. The retired munitions executive first met Riconosciuto through senior executives of the Wackenhut Corporation in 1980 on the Cabazon Indian Reservation near Indio, California.

By May 1981, according to published press accounts, Wackenhut had established a joint venture with the Cabazon Indians at Indio to explore the manufacturing of 120 mm combustible cartridge cases and "related armament activities;" to seek government contracts for security services; and to work with "appropriate U.S. government agencies" for exporting such items as night vision goggles. Riconosciuto's CIA-related munitions research occurred within the context of this Wackenhut-Cabazon joint venture.

On March 11, 1982, Riconosciuto met in Las Vegas with several of the top Wackenhut officials, including George Wackenhut, John S. Ammarell, and Bob Frye, President of Wackenhut Services, Inc., the Wackenhut subsidiary responsible for the Cabazon Indian joint venture, according to a letter from Riconosciuto to his business partner Patrick Moriarty. This meeting helped Riconosciuto decide to enter into a written agreement with the U.S. Attorney's Office in Los Angeles and the FBI to become a "cooperative witness" against others engaged in drug trafficking, gun running, and money laundering. That same month, Wackenhut arranged introductions for Riconosciuto with the Defense Advanced Research Project Agency (DARPA) on the possible adaptation of Hercules' new power pack to solar energy by the use of photovoltaic systems, and on Riconosciuto's ideas on cooling re-entry items from outer space, on the development of a new airborne laser weapon to be used as a "satellite killer," and on the development of a "rail gun," according to the same letter.

According to one of Riconosciuto's former co-workers in the desert, Riconosciuto had frequent communication with Los Angeles U.S. Attorney Steve Trott. Riconosciuto initially intended

to use Los Angeles attorney Harlan Braun in his negotiations with Trott that were set up in the spring of 1982 at the urging of George Wackenhut and John Ammarell. Harlan Braun, however, had a conflict of interest arise because he was representing Ben Kalka, allegedly one of the leaders in illegal drug trafficking against whom Riconosciuto was about to become a cooperative witness. As a result, Braun referred Riconosciuto to Donald Wager, even though Wager was "not connected with the organization." According to Riconosciuto's statements to co-authors Pizzo and Fricker in December 1987, Harlan Braun represented the CIA in the Los Angeles area. Wager then met with U.S. Attorney Steve Trott, John Paul Nichols of the Cabazon Indian Reservation, and "Fat Tony" Accardo whom Riconosciuto described as an organized crime figure from Chicago, to discuss the cooperative witness deal for Riconosciuto. Wager told Riconosciuto after the meeting: "it is unholy," according to Riconosciuto's statements to us.

According to Riconosciuto's statements to the co-authors, Pizzo and Fricker, John Paul Nichols, who headed the Wackenhut/Cabazon joint venture, worked for both the CIA and organized crime; and had years earlier been hired by the CIA to head an organized crime team intended to assassinate Castro in Cuba. Riconosciuto also told them that Nichols had commissioned some "hit men" who work for "Fat Tony" Accardo to kill Riconosciuto but that Accardo was eventually persuaded that this was a feud between Nichols and Riconosciuto and that organized crime "hit men" should stay out of it. Perhaps the "unholy" meeting in Trott's office involving "Fat Tony" Accardo, John Paul Nichols and Donald Wager led to that result.

Based on this limited research and on the assumption that Riconosciuto has been telling the truth, the following is our understanding of the connection between the INSLAW problems at the Department of Justice and the alleged intelligence mission to Iran in 1980.

William Casey had become campaign manager for Ronald Reagan's bid for the Republican nomination for the Presidency in February 1980, the day after the New Hampshire primary, when Reagan dismissed John Sears as campaign manager.

As claimed by Riconosciuto and evidenced by Casey's disclosures during his 1981 Senate Confirmation Hearings for his appointment as CIA Director, Casey had served as outside counsel for the Wackenhut Corporation during 1979 and 1980.

According to press accounts, Casey had become concerned fairly early in 1980 that President Carter might stage an "October surprise" by gaining the release of American hostages from Iran on the eve of the election. Casey reportedly had feared that such a development could spell defeat for Ronald Reagan.

Governor Ronald Reagan had appointed Earl Brian to serve as California's Secretary of Health in 1970, at the beginning of Reagan's second term as Governor. Brian was then only 30 years of age. Soon thereafter, Brian was promoted to Secretary of Health and Welfare and helped spearhead the welfare reforms that became the hallmark of Governor Reagan's Administration. According to one former member of Governor Reagan's Administration, Brian eventually became the equivalent of a foster son to Ronald Reagan.

According to Riconosciuto, Wackenhut in 1980 had a division known as Wackenhut Research which served as a CIA "cut out." The Annual Report for the Wackenhut Corporation for 1980 lists a domestic subsidiary known as Wackenhut Research Corporation and indicates that it was headquartered in Springfield, Virginia. According to the 1980 Annual Report, Wackenhut invested

more than $500,000 in research and development work through this subsidiary during 1980 "centered on the development and application of sensor-based technology for security and investigative use" relating to saboteurs, prisoners or illegal aliens. According to the 1980 Annual Report, The Wackenhut Research Corporation was a joint venture between The Wackenhut Corporation and ENSCO, Inc., a "research, development and applied engineering firm." There is no reference to this Wackenhut Research Corporation subsidiary in recent Wackenhut Annual Reports.

The inference we draw from Riconosciuto's statements to us is that Casey arranged for Wackenhut Research to hire both Earl Brian and Michael Riconosciuto as consultants or contract employees in 1980 for the mission to Iran. Brian presumably could credibly serve as a personal representative of Ronald Reagan because of his verifiably close relationship to Reagan, without arousing public curiosity because Brian is not someone widely known to the public. Riconosciuto acknowledged having had the role of doing the electronic funds transfer work for the $40 million, and stated, in the passive voice, that "there was money laundering...." We infer that Riconosciuto also did the money laundering for the $40 million to disguise its Saudi Royal Family origin.

Riconosciuto claimed that the arrangements for the $40 million were made through Prince Bandar Bin Sultan, Saudi Arabia's Ambassador to the United States and Fahim Safar, whom Riconosciuto described as a financial advisor to the Saudi Royal Family. Riconosciuto claimed that the funds were in a Credit Suisse bank branch in Georgia.

According to a former colleague of Riconosciuto on the desert R&D project, Riconosciuto did, in fact, know Fahim Safar and Fahim Safar is, in fact, a financial advisor to the Royal Family on certain kinds of projects. According to this source, Fahim Safar normally lives in Lausanne, Switzerland, but also maintains a residence in Atlanta, Georgia. According to the Atlanta telephone directory service, both the Credit Suisse bank and Fahim Safar have Atlanta listings.

According to Riconosciuto, "there was money laundering through NASA's university cut outs," and Charles Carter, who headed the NASA division responsible for R&D grants to universities, knows the whole story of the 1980 mission to Iran. According to the retired munitions company executive, Riconosciuto knew Charles Carter and had meetings with Carter at NASA. We infer that Riconosciuto laundered the Saudi $40 million through the bank accounts of NASA university grantees; that he made the arrangements for this work through Charles Carter; and that this accounts for Charles Carter's knowledge of the 1980 mission to Iran.

According to Riconosciuto, Brian liaised on the Iran mission with George Pender. According to a former colleague of Riconosciuto who served on the Board of FIDCO (of which Pender was Chairman). George Pender is currently in his 70's, lives in Southern California, and "may" well have known William Casey, Earl Brian and Ronald Reagan. According to the free-lance reporter, Vaughn, Pender worked extensively in Lebanon during the 1970's and has photographs of himself with various leaders of Christian factions in Lebanon. According to the Riconosciuto former colleague and FIDCO board member, there was Saudi Royal Family money in FIDCO; and FIDCO was engaged, at least in part, in covert intelligence-related operations such as building an electronic listening post in Nigeria under the guise of building a steel mill.

We infer that Pender served as Casey's project manager for the 1980 mission to Iran.

Riconosciuto told us that he and Brian worked together at Transaction Technologies, a wholly-owned subsidiary of Citicorp. We infer that Brian and Riconosciuto used Transaction

Technology, the electronic funds transfer arm of Citibank, for the electronic funds transfer and money laundering work.

Riconosciuto told us that the Israelis were also involved in the 1980 intelligence mission to Iran by supplying technical knowledge and assistance to Iran about the use of U.S. military technology acquired under the Shah. Riconosciuto told us that Iran had enough spare parts but had lost the technical knowledge as the result of the decimation of its officer corps in the Iranian Revolution.

According to the retired munitions executive, when he resigned as head of the planned Wackenhut-Cabazon munitions company because of a growing uneasiness about the legitimacy of the "national security" umbrella claimed by Wackenhut, Van Dewerker succeeded him.

We infer from this fact that Van Dewerker may have had a background in munitions R&D and that he may have served in the CIA's Science and Technology component as a research project director for an air-fueled device research program before moving to Orange County, California, to provide closer support for this research project in the California desert. If this inference is correct, Van Dewerker would have functioned almost as a CIA "handler" for Riconosciuto and presumably would have at some point learned about Riconosciuto's intelligence mission to Iran in 1980. This could account for Riconosciuto's claim to us that John Van Dewerker knows the whole story of the 1980 mission to Iran.

According to Riconosciuto, Glenn Feldman, who practiced law with former U.S. Senator James Abourezk, also knows the whole story of the 1980 mission to Iran. According to the retired munitions executive, Feldman is an Indian rights legal specialist who represented both the Cabazon Indian Tribe and John Paul Nichols, and who did the legal work that led to the certification of the sovereign immunity of the Cabazon Indians. We infer that Wackenhut and the CIA were the real interested parties in obtaining the sovereign immunity certification as cover for their projects on the reservations, and that Feldman might have become familiar with the mission to Iran and the other activities on the reservation as a result of his legal work for the tribe and for John Paul Nichols.

Riconosciuto told us that former U.S. Senator James Abourezk also knows the whole story. According to the retired munitions executive, Riconosciuto frequently met with Abourezk and Feldman, and Abourezk may have represented either Wackenhut or Saudi Arabia or both. According to this same source, Wackenhut has extensive contract business in Saudi Arabia. According to an August 8, 1980 letter to James Abourezk from the Royal Embassy of Saudi Arabia in Washington, Abourezk had made a written request to Saudi Arabia and obtained confirmation that neither Wackenhut International nor the Cabazon Indians Trading Company was on "our black list for companies." According to Riconosciuto's interview with the co-authors Pizzo and Fricker in December 1987, Saudi Arabia always used Wackenhut to obtain any technical assistance it needed.

Riconosciuto told us that the PROMIS-related payoff to Earl Brian is "chiseled in stone" in documents that he saw in the legal offices shared by Abourezk and Feldman. If Abourezk represented Wackenhut, and Wackenhut intended to participate in the PROMIS-related payoff to Brian, this could explain the existence of such documents.

Riconosciuto told us that Donald Wager, who had represented him at one point and who Riconosciuto said was responsible for keeping Michael Reagan from embarrassing President and Mrs. Reagan, handled correspondence reflecting the PROMIS-related payoff to Brian.

Technology, the electronic funds transfer arm of Citibank, for the electronic funds transfer and money laundering work.

Riccnosciuto told us that the Israelis were also involved in the 1980 intelligence mission to Iran by supplying technical knowledge and assistance to Iran about the use of U.S. military technology acquired under the Shah. Riconosciuto told us that Iran had enough spare parts but had lost the technical knowledge as the result of the decimation of its officer corps in the Iranian Revolution.

According to the retired munitions executive, when he resigned as head of the planned Wackenhut-Cabazon munitions company because of a growing uneasiness about the legitimacy of the "national security" umbrella claimed by Wackenhut, Van Dewerker succeeded him.

We infer from this fact that Van Dewerker may have had a background in munitions R&D and that he may have served in the CIA's Science and Technology component as a research project director for an air-fueled device research program before moving to Orange County, California, to provide closer support for this research project in the California desert. If this inference is correct, Van Dewerker would have functioned almost as a CIA "handler" for Riconosciuto and presumably would have at some point learned about Riconosciuto's intelligence mission to Iran in 1980. This could account for Riconosciuto's claim to us that John Van Dewerker knows the whole story of the 1980 mission to Iran.

According to Riconosciuto, Glenn Feldman, who practiced law with former U.S. Senator James Abcurezk, also knows the whole story of the 1980 mission to Iran. According to the retired munitions executive, Feldman is an Indian rights legal specialist who represented both the Cabazon Indian Tribe and John Paul Nichols, and who did the legal work that led to the certification of the sovereign immunity of the Cabazon Indians. We infer that Wackenhut and the CIA were the real interested parties in obtaining the sovereign immunity certification as cover for their projects on the reservations, and that Feldman might have become familiar with the mission to Iran and the other activities on the reservation as a result of his legal work for the tribe and for John Paul Nichols.

Riconosciuto told us that former U.S. Senator James Abourezk also knows the whole story. According to the retired munitions executive, Riconosciuto frequently met with Abourezk and Feldman, and Abourezk may have represented either Wackenhut or Saudi Arabia or both. According to this same source, Wackenhut has extensive contract business in Saudi Arabia. According to an August 8, 1980 letter to James Abourezk from the Royal Embassy of Saudi Arabia in Washington, Abourezk had made a written request to Saudi Arabia and obtained confirmation that neither Wackenhut International nor the Cabazon Indians Trading Company was on "our black list for companies." According to Riconosciuto's interview with the co-authors Pizzo and Fricker in December 1987, Saudi Arabia always used Wackenhut to obtain any technical assistance it needed.

Riconosciuto told us that the PROMIS-related payoff to Earl Brian is "chiseled in stone" in documents that he saw in the legal offices shared by Abourezk and Feldman. If Abourezk represented Wackenhut, and Wackenhut intended to participate in the PROMIS-related payoff to Brian, this could explain the existence of such documents.

Riconosciuto told us that Donald Wager, who had represented him at one point and who Riconosciuto said was responsible for keeping Michael Reagan from embarrassing President and Mrs. Reagan, handled correspondence reflecting the PROMIS-related payoff to Brian.

From various documents and interviews, we have learned that Wager substituted for Harlan Braun in representing Riconosciuto in negotiations with Los Angeles U.S. Attorney Steve Trott in 1982 about becoming a "cooperative witness" against organized criminal activities in money laundering, gun running, and drug trafficking. Riconosciuto's objective presumably was to extinguish his personal criminal liability in exchange for providing evidence against others. As noted earlier, Wackenhut's top executives had strongly advocated this step to Riconosciuto. We infer that Wackenhut's objective, at least in part, was to "clean up" Riconosciuto to make it easier to use him on selling additional classified, high-tech R&D projects to the federal government. In order to maximize the interests of his client, Riconosciuto, in the negotiations with U.S. Attorney Steve Trott, Wager may well have sought and obtained some kind of written documentation about the alleged Brian and Riconosciuto strategic contribution to the election of Ronald Reagan. This could explain Riconosciuto's claim that Wager had handled correspondence that reflected the PROMIS-related payoff to Brian.

According to Riconosciuto, he also met with U.S. Attorney Steve Trott to seek his help in avoiding a trip to Israel for a debriefing on certain technology that Riconosciuto claimed should not have been shared with the Israelis. Riconosciuto told us that Trott "looked the other way," and did not offer any help. Riconosciuto told us that he, therefore, went to Israel and that,upon his return, the Israeli Government "drop shipped" a Cray super-computer to Riconosciuto with five years pre-paid maintenance.

We infer that the Israelis arranged for Riconosciuto to brief them on the "600 megawatt, transversally excited, chemical, gaseous, dynamic laser" that he claimed to have developed by 1981, and that Trott "looked the other way" possibly because the Reagan Administration was indebted to the Israelis for their secret contribution to the 1980 mission to Iran and, thereby, to the election of Ronald Reagan as President of the United States.

Riconosciuto told us that he has a copy of the "VAX/VMS version of the PROMIS source code"; and that one of two software companies in which he claims to have a financial interest, TCS Software of Houston or Park Software of Washington State, was hired by Wackenhut Corporation to integrate this version of PROMIS with a report generation software product manufactured and marketed to government agencies for the VAX computer under the VMS operating system.

INSLAW delivered a VAX/VMS version of the PROMIS source code to the Department of Justice in April or May 1983, but actually installed PROMIS on a different brand computer in the U.S. Attorneys' Offices: each of the 42 largest U.S. Attorneys' Offices operates PROMIS on PRIME computers under the PRIMOS operating system. Department of Justice officials testified under oath in the INSLAW litigation that the VAX/VMS version of PROMIS was never taken out of the box in which INSLAW delivered it to the Justice Department.

Riconosciuto could not have learned of the existence of the VAX/VMS version of PROMIS through press accounts of the INSLAW case. Riconosciuto seemed surprised and mystified when we explained that the U.S. Attorneys had installed PROMIS on PRIME computers rather than on VAX computers made by Digital Equipment Corporation, operating under the VMS operating system.

We infer that Wackenhut Corporation hired one of Riconosciuto's software companies to integrate PROMIS with its report generation software product for the VAX computer for government customers of Wackenhut other than the U.S. Attorneys' Offices. Wackenhut has contracts with the

Justice Department's Immigration and Naturalization Service and with other federal departments such as the Department of Energy. The Department of Energy, by itself, accounts for 20% of Wackenhut's corporate revenues. Perhaps the piracy of the PROMIS software by and on behalf of the United States Government has been far more widespread than what the U.S. Department of Justice has thus far admitted in court.

Riconosciuto told us that he had heard that Wackenhut and Brian had submitted an unsolicited bid to install PROMIS throughout the federal government, and that a Wackenhut annual report during the early 1980's made a reference to "tracking software for law enforcement administration," and that that reference was really to INSLAW's PROMIS software.

Based on information documented in INSLAW's Mandamus lawsuit, we infer that Ronald Reagan's alleged decision to provide a financial reward to Earl Brian for his alleged intelligence contribution to the 1980 election victory was implemented by Edwin Meese in The White House and D. Lowell Jensen in the U.S. Department of Justice.

Shortly after the inauguration and no later than May 4 or 5, 1981, the Reagan White House decided to launch a massive sweetheart contract at the U.S. Department of Justice to install a uniform case management software package on new computers in every investigative and litigative office of the Justice Department nationwide. The project was engineered in The White House by Edwin Meese, and spearheaded within the Justice Department by D. Lowell Jensen, beginning with Jensen's tenure as Assistant Attorney General for the Criminal Division. The software for the project was to be the PROMIS legal case management software manufactured by INSLAW, according to statements made by Meese in The White House on May 4 or 5 1981 to Donald Santarelli, a Presidential appointee in the Nixon Justice Department.

The project was officially chartered by D. Lowell Jensen on December 9, 1985 as the Uniform Office Automation and Case Management Project. The project is better known under the code name of Project EAGLE. The planning for EAGLE began in 1981 with the creation of the Justice Department Task Force on Automated Legal Support Systems. D. Lowell Jensen, then Assistant Attorney General for the Criminal Division, and Glen L. Archer, Jr., then Assistant Attorney General for the Tax Division, were the two Presidential appointees on the Task Force, which was chaired by Associate Deputy Attorney General Stan Morris. When the Justice Department initially released the Project EAGLE Request for Proposals in May of 1986, the procurement was focused only on the Criminal and Tax Divisions. In the Task Force's Final Report of January 27, 1983, Jensen identified as the number one problem "the need for interagency tracking of cases...."

By separate Memorandum, dated April 10, 1990, we have summarized the highlights of this plan to acquire the PROMIS software "through trickery, fraud and deceit" for use in Project EAGLE. The plan began in early 1981 with steps to facilitate the future sabotage of INSLAW's PROMIS-based business relationship with the Justice Department and has continued through both terms of President Reagan and into the current Thornburgh Justice Department under President Bush.

A copy of Memo

Confidential
Background Only

RE: *An Assessment Of Michael Riconosciuto And His Claim That INSLAW's Problems At The Justice Department Had Their Origin In A Decision By Ronald Reagan To Provide A Financial Reward To Earl Brian For An Intelligence Contribution To The 1980 Election Victory*

May 18.

Background:

The Wackenhut Corporation is a private security company listed on the New York Stock Exchange. During the 1980's, its Board of Directors included former directors of every major U.S. intelligence agency including the FBI, the CIA, the NSA, and the DIA. William Casey, Reagan's Campaign Manager in 1980, was also outside counsel for Wackenhut in 1980. Wackenhut is headquartered in Coral Gables, Florida, and has subsidiaries in many foreign countries, including Saudi Arabia.

In 1980, The Wackenhut Corporation hired Michael Riconosciuto as the Director of Research for a joint venture that Wackenhut was then setting up with the Cabazon Indian Tribe on their reservation in the California desert.

The purpose of the joint venture was to develop and manufacture weapons for the Contras in Nicaragua, and also to export weapons to other countries including Saudi Arabia. Among the items planned for manufacture on the Indian Reservation were machine guns, night-vision goggles, "air-fueled device" bombs, and even bacteriological warfare weapons.

The Cabazon Indians are a "sovereign nation" that comprises about 24 Indians located on a reservation in the California desert near Indio, California.

Fellow workers of Riconosciuto at the joint venture have described him as an expert in electronics, physics and chemistry and as someone known to intelligence and security officials in Allied countries as "the best in the business" of high technology weapons R&D. Riconosciuto is said to be very knowledgeable about nuclear weapons, laser technology and computer software. About 10 years before Wackenhut hired him as the Director of Research for this joint venture, Riconosciuto was convicted and incarcerated in a federal penitentiary for the manufacture and distribution of illicit chemical drugs.

Earl Brian, at age 30, became Secretary of Health under Governor Reagan, at the start of Reagan's second term in 1970. After a promotion to Secretary of Health and Welfare, Brian spearheaded the welfare reform program that eventually became the hallmark of the Reagan Governorship. Brian was considered a political insider in the Sacramento Administration of

Governor Reagan and a close confidante of Edwin Meese, Michael Deaver, and Lyn Nofziger. When Meese was nominated as Attorney General in January 1984, his undisclosed business and financial ties to Earl Brian became the central issue in an investigation of Meese by Independent Counsel Jacob Stein. Brian heads Infotechnology, Inc. of New York City, formerly known as Biotech Capital Corporation. Through that company, Brian controls several other companies including Financial News Network, United Press International, and Hadron, Inc. of Fairfax, Virginia. Brian is a neurosurgeon who has not practiced medicine since serving as a military doctor in Vietnam for two years in the late 1960's.

In a two-and-one-half hour telephone conversation with us on May 18, 1990, Michael Riconosciuto claimed that INSLAW's problems with the U.S. Department of Justice had their origin in a decision by Ronald Reagan to provide a financial reward to Earl Brian for an intelligence contribution to the 1980 election victory.

The essence of Riconosciuto's claims to us is as follows:

- o William Casey, while serving as outside counsel for Wackenhut, arranged for the Wackenhut Research Corporation, a subsidiary that then served as a CIA "cut out," to hire Earl Brian and Michael Riconosciuto in 1980 as contract employees for an intelligence mission to Iran.

- o Riconosciuto did the electronic funds transfer work and Brian "carried the codes." They transferred more than $40 million to "certain elements in Iran" to prevent a deal with the Carter Administration to release the American hostages prior to the election.

- o Saudi Arabia's Royal Family provided the approximately $40 million in bribe money. The arrangements were made through Fahim Safar, a financial advisor to the Royal Family, and Prince Bandar Bin Sultan, Saudi Arabia's Ambassador to the United States.

- o The Israeli Government was also involved by providing technical assistance to Iran on the proper use of U.S military technology that Iran had acquired under the Shah. The decimation of Iran's officer corps during the revolution had left Iran in desperate need of such technical assistance.

- o A "Judge Fairhurst" (phonetic) was also involved in the matter, although Riconosciuto did not further identify this person nor elaborate on his role.

- o For the mission to Iran, Earl Brian liaised with George Pender, whom we have later discovered was Chairman of the First Intercontinental Development Corporation (FIDCO). According to Riconosciuto, FIDCO had Saudi Royal Family money for rebuilding Beirut, and Mr. and Mrs. Ronald Reagan owned shares in FIDCO through proxies held by George

William Lenhart
CIA
NSA - Deborah

Pender, his daughter, Deborah, or Michael McManus[1]. According to Riconosciuto, a similar arrangement was used for stock ownership by Mr. and Mrs. Reagan in other corporations, including Wedtech, Northrop and FMC.

- The Saudi money came from an account in a Credit Suisse bank affiliate in Georgia; the money was subsequently laundered thorough bank accounts belonging to universities that receive R&D grants from NASA.

- Riconosciuto saw documents in the law offices of former U.S. Senator James Abourezk and Glenn Feldman in which the INSLAW-related payoff to Earl Brian was "chiseled in stone."

- Riconosciuto's Los Angeles attorney, Donald Wager, "handled correspondence" reflecting the INSLAW-related payoff to Brian.

South African

- Others who know the whole story of the intelligence mission to Iran and the INSLAW-related payoff to Brian are Charles Carter, who headed the division of NASA that awarded R&D grants to universities; and John Van Dewerker, a former CIA employee who left the CIA to head a CIA "cut out," known as Intersect, that was based in Orange County, California and that was also involved with the Wackenhut-Cabazon joint venture.

- Intersect was folded when Congress began focusing on possible Reagan Administration violations of the 2nd Boland Amendment.

- "Earl Brian cold turkey violated currency laws. I never carried any cash out of the country."

- "Brian made several trips to Iran in 1980, 1981, and possibly 1982."

Since the May 18, 1990 telephone conversation with Riconosciuto, INSLAW has obtained some corroboration of the alleged link between the INSLAW problems at the Department of Justice and the Iran/Contra scandal. The corroboration is based on our discussions with a former colleague of Riconosciuto on the Wackenhut/Cabazon joint venture, a person who is sharply critical of Riconosciuto. This source, who also served on the Board of Directors of FIDCO and who claims to have participated in meetings at The White House, claims to be totally disillusioned with the Republican Party because of his Iran/Contra experience. The source told us that a group of Europeans, alarmed at what was happening in the United States with the Iran/Contra affair, assembled a very large repository of classified documents relating to the Iran/Contra affair from U.S. and Allied intelligence and security agencies. After reading INSLAW's Petition For A Writ Of Mandamus and interviewing us on the telephone, this source claims to have written to the people who control this document repository in Switzerland. This source claims that "my people" responded

---

[1] Michael McManus served as Deputy to Michael Deaver in the Reagan White House. He also served on the Board of Directors of FIDCO.

to the letter of inquiry by informing this source that they "know all about" the INSLAW matter. The people in Switzerland also asked the source to find out from us whether we have ever been threatened in the course of the INSLAW scandal. This source also told us that we "may be receiving some documents in the mail from abroad."

Riconosciuto's motives for making his disclosures are not clear, but from remarks that he made to us and based on information that we have obtained from others who know Riconosciuto, his motive could either be "to get even" or "to get leverage" against former allies in the federal government whom Riconosciuto claims are currently harassing him.

Assuming that Riconosciuto spoke truthfully, the INSLAW case could provide powerful ammunition for either motive because of the two federal court rulings, the detailed documentation of a conspiracy reaching into The White House that is contained in the Mandamus lawsuit, the pending House Judiciary Committee investigation, and the extensive press coverage.

As to "getting even," Riconosciuto said that he had gone from being regarded as a VIP in the Republican Party to being regarded as nothing more than a "gun runner" or a "rogue." We have learned from other sources that Riconosciuto once claimed to believe that The Wackenhut Corporation was complicit in the execution-style murder of Paul Marasca in San Francisco in January 1982. Marasca had been Riconosciuto's business partner in Recovery Technology, Inc., and both Riconosciuto and Marasca had been family friends since a young age. So, if Riconosciuto is seeking to get even, his target could well be the Wackenhut Corporation.

As to "getting leverage" over his former allies in the federal government, Riconosciuto told us that all he wants is peace and that, if he is allowed to live in peace, he will "submerge" himself for the rest of his life. He said that he is constantly being harassed by law enforcement. He claimed to have "notes and correspondence," and he also claimed to have a secretly-made tape recording of a meeting he had with CIA Director William Casey at a country club in 1983. Riconosciuto referred to this tape recording as his "insurance." He said that unless the harassment stops, he is "ready to blow." Presumably, Riconosciuto could seek to use the leverage of the connection between the INSLAW case and the methods allegedly used by the Reagan/Bush campaign to assure victory in the 1980 election in order to force an end to the harassment of Riconosciuto by law enforcement authorities. Riconosciuto told us "I was a [Republican] Party Indian and a believer then. I have since come to a new awareness. I have been harassed."

We told Riconosciuto that we needed to be able to prove his assertions in a court of law. He said that his and Earl Brian's passports will each reflect the trip to Iran in 1980; that he has or can obtain copies of the 1099 tax forms showing that Riconosciuto and Brian were each contract employees of Wackenhut Research at the time of their trip to Iran in 1980; that he has a photograph of Brian and Riconosciuto together in Iran in 1980; that Los Angeles lawyer Donald Wager "has had correspondence" reflecting the PROMIS[1]-related payoff to Earl Brian for the 1980 mission to Iran; that former United States Senator James Abourezk and his then law partner or associate, Glenn Feldman, each have documents in which the PROMIS-related payoff to Earl Brian is "chiseled in stone;" that Abourezk, Feldman, John Van Dewerker (described as a former CIA official who left the

[1] PROMIS is the name of a proprietary legal case management software product manufactured by INSLAW, Inc. PROMIS (Prosecutor's Management Information System) software is currently operating on computers in each of the 42 largest U.S. Attorneys' Offices nationwide.

CIA to head Intersect, an alleged CIA proprietary in Orange County, California), and Charles Carter (described as the head of the University R&D grants division of NASA) each knows the whole story of the 1980 mission to Iran and its connection to INSLAW's problems at the Justice Department.

Since the May 18, 1990 telephone conversation, we have talked to two persons who worked with Riconosciuto in the early 1980's on the Wackenhut/Cabazon joint venture in the California desert near Indio, California (one is the retired president of a munitions company whom Wackenhut recruited to head a planned munitions factory on the Indian Reservation; and the other was a member of the Board of Directors of the First Intercontinental Development Corporation (FIDCO) whom Wackenhut recruited "from abroad" to work on the Indian Reservation projects on the grounds that the projects were essential to the U.S. national security).

We have also talked to reporters who had interviewed Riconosciuto in the past about other matters: Steve Pizzo and Mary Fricker who interviewed Riconosciuto in December 1987 in connection with research on Inside Job, their book on the savings and loan scandal; and Douglas Vaughn, Jr., a free-lance writer who interviewed Riconosciuto for three days in 1989 about his knowledge of FBI actions to collect evidence against a Denver, Colorado, businessman named Kilpatrick for use in a $300 million tax fraud prosecution. We have also talked to a newspaper reporter in Takoma, Washington, Riconosciuto's home town, who read to us copies of old newspaper articles about Riconosciuto as a child prodigy who developed sophisticated electronics experiments, beginning as early as age 10, when Riconosciuto wired his parents' neighborhood for an alternative telephone system.

According to the co-authors, Pizzo and Fricker, Riconosciuto displayed highly credible insider knowledge of aspects of the savings and loan scandal, including money laundering by both organized crime and the CIA through savings and loan institutions; told them about Wackenhut's connection to the CIA and Casey's connection to Wackenhut; and told them a bizarre story, which they later independently confirmed, about Riconosciuto's role in equipping AWAC aircraft destined for Saudi Arabia with sophisticated radar technology that the United States Congress, at the urging of Israel, had proscribed for the sale to Saudi Arabia.

According to the free-lance reporter, Vaughn, Riconosciuto displayed detailed knowledge, later independently confirmed as accurate, of FBI penetration of Kilpatrick's company by a one-time Wackenhut employee for the purpose of surreptitiously removing copies of computer tapes to aid the FBI's investigation of Kilpatrick for possible tax shelter fraud.

We talked to a lawyer who represented Kilpatrick; this lawyer corroborated the account. This lawyer explained that Judge Kane, the federal district judge, had dismissed the prosecution, and had ordered copies of transcripts of the grand jury proceedings given to the defense for possible use in a lawsuit against the Government.

We made contact with a current Assistant Administrator of NASA who not only confirmed that Charles Carter had headed the University R&D grants division of NASA until 1985 or 1986, but who also claimed that Carter and a colleague, by the name of Richey, had operated in the "black" world and had engaged - very questionable financial transactions with university grantees. According to this Assistant Administrator, the NASA Inspector General has declined to investigate the allegations about financial irregularities on the part of Carter and Richey on the ground that it would not be "cost effective" to investigate.

CIA to head Intersect, an alleged CIA proprietary in Orange County, California), and Charles Carter (described as the head of the University R&D grants division of NASA) each knows the whole story of the 1980 mission to Iran and its connection to INSLAW's problems at the Justice Department.

Since the May 18, 1990 telephone conversation, we have talked to two persons who worked with Riconosciuto in the early 1980's on the Wackenhut/Cabazon joint venture in the California desert near Indio, California (one is the retired president of a munitions company whom Wackenhut recruited to head a planned munitions factory on the Indian Reservation; and the other was a member of the Board of Directors of the First Intercontinental Development Corporation (FIDCO) whom Wackenhut recruited "from abroad" to work on the Indian Reservation projects on the grounds that the projects were essential to the U.S. national security).

We have also talked to reporters who had interviewed Riconosciuto in the past about other matters: Steve Pizzo and Mary Fricker who interviewed Riconosciuto in December 1987 in connection with research on Inside Job, their book on the savings and loan scandal; and Douglas Vaughn, Jr., a free-lance writer who interviewed Riconosciuto for three days in 1989 about his knowledge of FBI actions to collect evidence against a Denver, Colorado, businessman named Kilpatrick for use in a $300 million tax fraud prosecution. We have also talked to a newspaper reporter in Takoma, Washington, Riconosciuto's home town, who read to us copies of old newspaper articles about Riconosciuto as a child prodigy who developed sophisticated electronics experiments, beginning as early as age 10, when Riconosciuto wired his parents' neighborhood for an alternative telephone system.

According to the co-authors, Pizzo and Fricker, Riconosciuto displayed highly credible insider knowledge of aspects of the savings and loan scandal, including money laundering by both organized crime and the CIA through savings and loan institutions; told them about Wackenhut's connection to the CIA and Casey's connection to Wackenhut; and told them a bizarre story, which they later independently confirmed, about Riconosciuto's role in equipping AWAC aircraft destined for Saudi Arabia with sophisticated radar technology that the United States Congress, at the urging of Israel, had proscribed for the sale to Saudi Arabia.

According to the free-lance reporter, Vaughn, Riconosciuto displayed detailed knowledge, later independently confirmed as accurate, of FBI penetration of Kilpatrick's company by a one-time Wackenhut employee for the purpose of surreptitiously removing copies of computer tapes to aid the FBI's investigation of Kilpatrick for possible tax shelter fraud.

We talked to a lawyer who represented Kilpatrick; this lawyer corroborated the account. This lawyer explained that Judge Kane, the federal district judge, had dismissed the prosecution, and had ordered copies of transcripts of the grand jury proceedings given to the defense for possible use in a lawsuit against the Government.

We made contact with a current Assistant Administrator of NASA who not only confirmed that Charles Carter had headed the University R&D grants division of NASA until 1985 or 1986, but who also claimed that Carter and a colleague, by the name of Richey, had operated in the "black" world and had engaged in very questionable financial transactions with university grantees. According to this Assistant Administrator, the NASA Inspector General has declined to investigate the allegations about financial irregularities on the part of Carter and Richey on the ground that it would not be "cost effective" to investigate.

We obtained copies of newspaper articles about Riconosciuto's conviction for drug trafficking in Seattle at the age of 24; about Riconosciuto's work, while President of Hercules Research Corporation of Contra Costa, California, in 1981, in developing a miniature electric power supply device; about the execution-style murder in San Francisco in January 1982 of Paul Marasca, Riconosciuto's partner in another company, Recovery Technology, Inc.; about several execution-style murders of Indians on the Cabazon Reservation in 1981; and about the failed plan for a joint venture between the Cabazon Indians and Wackenhut to manufacture night vision goggles and machine guns for the Contras, to manufacture munitions, and to obtain guard service contracts with federal agencies under the 8A Set Aside Program for minorities.

We have obtained copies of various statements, interviews with and letters from Riconosciuto, including a draft letter in approximately March or April 1982 to Patrick Moriarty, his financial partner in Hercules Research Corporation; and a 73-page transcript of an interview of Riconosciuto by Ted Gunderson, the retired Special Agent-in-Charge (SAC) of the FBI office in Los Angeles, who is reported to be a close personal friend of Riconosciuto.

Finally, we have obtained a copy of the 1980 Annual Report for The Wackenhut Corporation; a copy of an August 1980 letter from the Saudi Arabian Embassy in Washington to former U.S. Senator James Abourezk relating to Wackenhut's joint venture with the Cabazon Indians; a copy of the letterhead for the First Intercontinental Development Corporation (FIDCO) listing its Board of Directors; and a copy of a letter dated January 27, 1983 from the Stormont Laboratories in Woodland, California, to Dr. John P. Nichols of the Wackenhut/Cabazon joint venture. Stormont Laboratories is the entity that was going to assist the joint venture in its plan to manufacture bacteriological warfare weapons for the Contras.

There are two sharply contrasting images of Riconosciuto that emerge from this research.

One image is of an intellectually gifted person with extraordinary talents in electronics, chemistry and physics. At age 10, Riconosciuto had wired his parent's neighborhood for a new telephone system competing against the pre-divestiture AT&T. In the eighth grade, Riconosciuto won a science fair with a working model of a three-dimensional sonar system. By age 16, Riconosciuto had won so many science fairs with exhibits of laser technology devices that he was invited to become a summer research assistant in the Cooper Vapor Laser Laboratory at Stanford University, working directly for Professor Arthur L. Schawlow. This was in the 1960's. In 1981, Professor Schawlow won a Nobel Prize for laser spectroscopy.

In the early 1980's, Riconosciuto served as Director of Research for the Wackenhut/Cabazon joint venture. Riconosciuto was in regular telephone communication with Bobby Inman, then Deputy Director of the CIA, during these years, according to the former FIDCO board member who worked with Riconosciuto for two years on the joint venture project. The retired munitions company president recalls a visit to Riconosciuto at the desert joint venture facility by a U.S. Admiral specializing in ordnance. Riconosciuto also met with Contra leaders such as Eden Pastora at the joint venture facility, according to the retired munitions executive and published press accounts.

One of Riconosciuto's projects involved the development of a new type of bomb, known as an air-fuel device, which reportedly can pack the force of an atomic blast, according to the retired munitions executive. This technology was reportedly pioneered by the Russians. An air-fuel device made in Bulgaria was used to blow up the U.S. Marines in Lebanon, according to the same witness. Riconosciuto displayed an intimate familiarity with the principal Russian-language

publications on this new technology, according to the same witness. According to the transcript of Gunderson's interview with Riconosciuto, Riconosciuto had also conducted R&D work relating to the latest state-of-the-art isotope separations used in producing hydrogen bombs and to the guidance systems for ballistic missiles. Riconosciuto also claimed, in the same Gunderson interview, that by 1981 he had developed and had actually working, a "600 megawatt, transversally excited, chemical, gaseous, dynamic laser; a battlestar gallactica piece of hardware."

In addition to this weapons-related R&D, Riconosciuto was engaged during the same period of the early 1980's in high-tech commercial R&D. As President of Hercules Research Corporation in the Bay area, Riconosciuto had invented a new miniaturized power supply technology, a tissue-box size device designed specifically to feed 30,000 volts of electricity to another device that cuts heating and cooling time in certain production processes by 40%, according to published press accounts. By August 1981, Hercules Research had acquired 11 patents on this new technology, and the popular press was promoting the idea that Hercules would some day be synonymous with the Silicon Valley.

The other, sharply contrasting image of Riconosciuto that emerges from this research is of a person engaged in sophisticated criminal enterprises in three fields: (1) illegal drug manufacturing and distribution (2) gun running to "unfriendly governments," and (3) "illegal financial manipulations." Riconosciuto is also suspected by some law enforcement officials of complicity in the execution-style murder of his business partner and possibly others, according to some of the reporters whom we interviewed.

One bridge between these two contrasting images of Michael Riconosciuto is the Wackenhut Corporation. The retired munitions executive first met Riconosciuto through senior executives of the Wackenhut Corporation in 1980 on the Cabazon Indian Reservation near Indio, California.

By May 1981, according to published press accounts, Wackenhut had established a joint venture with the Cabazon Indians at Indio to explore the manufacturing of 120 mm combustible cartridge cases and "related armament activities;" to seek government contracts for security services; and to work with "appropriate U.S. government agencies" for exporting such items as night vision goggles. Riconosciuto's CIA-related munitions research occurred within the context of this Wackenhut-Cabazon joint venture.

On March 11, 1982, Riconosciuto met in Las Vegas with several of the top Wackenhut officials, including George Wackenhut, John S. Ammarell, and Bob Frye, President of Wackenhut Services, Inc., the Wackenhut subsidiary responsible for the Cabazon Indian joint venture, according to a letter from Riconosciuto to his business partner Patrick Moriarty. This meeting helped Riconosciuto decide to enter into a written agreement with the U.S. Attorney's Office in Los Angeles and the FBI to become a "cooperative witness" against others engaged in drug trafficking, gun running, and money laundering. That same month, Wackenhut arranged introductions for Riconosciuto with the Defense Advanced Research Project Agency (DARPA) on the possible adaptation of Hercules' new power pack to solar energy by the use of photovoltaic systems, and on Riconosciuto's ideas on cooling re-entry items from outer space, on the development of a new airborne laser weapon to be used as a "satellite killer," and on the development of a "rail gun," according to the same letter.

According to one of Riconosciuto's former co-workers in the desert, Riconosciuto had frequent communication with Los Angeles U.S. Attorney Steve Trott. Riconosciuto initially intended

to use Los Angeles attorney Harlan Braun in his negotiations with Trott that were set up in the spring of 1982 at the urging of George Wackenhut and John Ammarell. Harlan Braun, however, had a conflict of interest arise because he was representing Ben Kalka, allegedly one of the leaders in illegal drug trafficking against whom Riconosciuto was about to become a cooperative witness. As a result, Braun referred Riconosciuto to Donald Wager, even though Wager was "not connected with the organization." According to Riconosciuto's statements to co-authors Pizzo and Fricker in December 1987, Harlan Braun represented the CIA in the Los Angeles area. Wager then met with U.S. Attorney Steve Trott, John Paul Nichols of the Cabazon Indian Reservation, and "Fat Tony" Accardo whom Riconosciuto described as an organized crime figure from Chicago, to discuss the cooperative witness deal for Riconosciuto. Wager told Riconosciuto after the meeting: "it is unholy," according to Riconosciuto's statements to us.

According to Riconosciuto's statements to the co-authors, Pizzo and Fricker, John Paul Nichols, who headed the Wackenhut/Cabazon joint venture, worked for both the CIA and organized crime; and had years earlier been hired by the CIA to head an organized crime team intended to assassinate Castro in Cuba. Riconosciuto also told them that Nichols had commissioned some "hit men" who work for "Fat Tony" Accardo to kill Riconosciuto but that Accardo was eventually persuaded that this was a feud between Nichols and Riconosciuto and that organized crime "hit men" should stay out of it. Perhaps the "unholy" meeting in Trott's office involving "Fat Tony" Accardo, John Paul Nichols and Donald Wager led to that result.

Based on this limited research and on the assumption that Riconosciuto has been telling the truth, the following is our understanding of the connection between the INSLAW problems at the Department of Justice and the alleged intelligence mission to Iran in 1980.

William Casey had become campaign manager for Ronald Reagan's bid for the Republican nomination for the Presidency in February 1980, the day after the New Hampshire primary, when Reagan dismissed John Sears as campaign manager.

As claimed by Riconosciuto and evidenced by Casey's disclosures during his 1981 Senate Confirmation Hearings for his appointment as CIA Director, Casey had served as outside counsel for the Wackenhut Corporation during 1979 and 1980.

According to press accounts, Casey had become concerned fairly early in 1980 that President Carter might stage an "October surprise" by gaining the release of American hostages from Iran on the eve of the election. Casey reportedly had feared that such a development could spell defeat for Ronald Reagan.

Governor Ronald Reagan had appointed Earl Brian to serve as California's Secretary of Health in 1970, at the beginning of Reagan's second term as Governor. Brian was then only 32 years of age. Soon thereafter, Brian was promoted to Secretary of Health and Welfare and helped spearhead the welfare reforms that became the hallmark of Governor Reagan's Administration. According to one former member of Governor Reagan's Administration, Brian eventually became the equivalent of a foster son to Ronald Reagan.

According to Riconosciuto, Wackenhut in 1980 had a division known as Wackenhut Research which served as a CIA "cut out." The Annual Report for the Wackenhut Corporation for 1980 lists a domestic subsidiary known as Wackenhut Research Corporation and indicates that it was headquartered in Springfield, Virginia. According to the 1980 Annual Report, Wackenhut invested

to use Los Angeles attorney Harlan Braun in his negotiations with Trott that were set up in the spring of 1982 at the urging of George Wackenhut and John Ammarell. Harlan Braun, however, had a conflict of interest arise because he was representing Ben Kalka, allegedly one of the leaders in illegal drug trafficking against whom Riconosciuto was about to become a cooperative witness. As a result, Braun referred Riconosciuto to Donald Wager, even though Wager was "not connected with the organization." According to Riconosciuto's statements to co-authors Pizzo and Fricker in December 1987, Harlan Braun represented the CIA in the Los Angeles area. Wager then met with U.S. Attorney Steve Trott, John Paul Nichols of the Cabazon Indian Reservation, and "Fat Tony" Accardo whom Riconosciuto described as an organized crime figure from Chicago, to discuss the cooperative witness deal for Riconosciuto. Wager told Riconosciuto after the meeting: "it is unholy," according to Riconosciuto's statements to us.

According to Riconosciuto's statements to the co-authors, Pizzo and Fricker, John Paul Nichols, who headed the Wackenhut/Cabazon joint venture, worked for both the CIA and organized crime; and had years earlier been hired by the CIA to head an organized crime team intended to assassinate Castro in Cuba. Riconosciuto also told them that Nichols had commissioned some "hit men" who work for "Fat Tony" Accardo to kill Riconosciuto but that Accardo was eventually persuaded that this was a feud between Nichols and Riconosciuto and that organized crime "hit men" should stay out of it. Perhaps the "unholy" meeting in Trott's office involving "Fat Tony" Accardo, John Paul Nichols and Donald Wager led to that result.

Based on this limited research and on the assumption that Riconosciuto has been telling the truth, the following is our understanding of the connection between the INSLAW problems at the Department of Justice and the alleged intelligence mission to Iran in 1980.

William Casey had become campaign manager for Ronald Reagan's bid for the Republican nomination for the Presidency in February 1980, the day after the New Hampshire primary, when Reagan dismissed John Sears as campaign manager.

As claimed by Riconosciuto and evidenced by Casey's disclosures during his 1981 Senate Confirmation Hearings for his appointment as CIA Director, Casey had served as outside counsel for the Wackenhut Corporation during 1979 and 1980.

According to press accounts, Casey had become concerned fairly early in 1980 that President Carter might stage an "October surprise" by gaining the release of American hostages from Iran on the eve of the election. Casey reportedly had feared that such a development could spell defeat for Ronald Reagan.

Governor Ronald Reagan had appointed Earl Brian to serve as California's Secretary of Health in 1970, at the beginning of Reagan's second term as Governor. Brian was then only 32 years of age. Soon thereafter, Brian was promoted to Secretary of Health and Welfare and helped spearhead the welfare reforms that became the hallmark of Governor Reagan's Administration. According to one former member of Governor Reagan's Administration, Brian eventually became the equivalent of a foster son to Ronald Reagan.

According to Riconosciuto, Wackenhut in 1980 had a division known as Wackenhut Research which served as a CIA "cut out." The Annual Report for the Wackenhut Corporation for 1980 lists a domestic subsidiary known as Wackenhut Research Corporation and indicates that it was headquartered in Springfield, Virginia. According to the 1980 Annual Report, Wackenhut invested

more than $500,000 in research and development work through this subsidiary during 1980 "centered on the development and application of sensor-based technology for security and investigative use" relating to saboteurs, prisoners or illegal aliens. According to the 1980 Annual Report, The Wackenhut Research Corporation was a joint venture between The Wackenhut Corporation and ENSCO, Inc., a "research, development and applied engineering firm." There is no reference to this Wackenhut Research Corporation subsidiary in recent Wackenhut Annual Reports.

The inference we draw from Riconosciuto's statements to us is that Casey arranged for Wackenhut Research to hire both Earl Brian and Michael Riconosciuto as consultants or contract employees in 1980 for the mission to Iran. Brian presumably could credibly serve as a personal representative of Ronald Reagan because of his verifiably close relationship to Reagan, without arousing public curiosity because Brian is not someone widely known to the public. Riconosciuto acknowledged having had the role of doing the electronic funds transfer work for the $40 million, and stated, in the passive voice, that "there was money laundering...." We infer that Riconosciuto also did the money laundering for the $40 million to disguise its Saudi Royal Family origin.

Riconosciuto claimed that the arrangements for the $40 million were made through Prince Bandar Bin Sultan, Saudi Arabia's Ambassador to the United States and Fahim Safar, whom Riconosciuto described as a financial advisor to the Saudi Royal Family. Riconosciuto claimed that the funds were in a Credit Suisse bank branch in Georgia.

According to a former colleague of Riconosciuto on the desert R&D project, Riconosciuto did, in fact, know Fahim Safar and Fahim Safar is, in fact, a financial advisor to the Royal Family on certain kinds of projects. According to this source, Fahim Safar normally lives in Lausanne, Switzerland, but also maintains a residence in Atlanta, Georgia. According to the Atlanta telephone directory service, both the Credit Suisse bank and Fahim Safar have Atlanta listings.

According to Riconosciuto, "there was money laundering through NASA's university cut outs," and Charles Carter, who headed the NASA division responsible for R&D grants to universities, knows the whole story of the 1980 mission to Iran. According to the retired munitions company executive, Riconosciuto knew Charles Carter and had meetings with Carter at NASA. We infer that Riconosciuto laundered the Saudi $40 million through the bank accounts of NASA university grantees; that he made the arrangements for this work through Charles Carter; and that this accounts for Charles Carter's knowledge of the 1980 mission to Iran.

According to Riconosciuto, Brian liaised on the Iran mission with George Pender. According to a former colleague of Riconosciuto who served on the Board of FIDCO (of which Pender was Chairman). George Pender is currently in his 70's, lives in Southern California, and "may" well have known William Casey, Earl Brian and Ronald Reagen. According to the free-lance reporter, Vaughn, Pender worked extensively in Lebanon during the 1970's and has photographs of himself with various leaders of Christian factions in Lebanon. According to the Riconosciuto former colleague and FIDCO board member, there was Saudi Royal Family money in FIDCO; and FIDCO was engaged, at least in part, in covert intelligence-related operations such as building an electronic listening post in Nigeria under the guise of building a steel mill.

We infer that Pender served as Casey's project manager for the 1980 mission to Iran.

Riconosciuto told us that he and Brian worked together at Transaction Technologies, a wholly-owned subsidiary of Citicorp. We infer that Brian and Riconosciuto used Transaction

Technology, the electronic funds transfer arm of Citibank, for the electronic funds transfer and money laundering work.

Ricconsciuto told us that the Israelis were also involved in the 1980 intelligence mission to Iran by supplying technical knowledge and assistance to Iran about the use of U.S. military technology acquired under the Shah. Riconosciuto told us that Iran had enough spare parts but had lost the technical knowledge as the result of the decimation of its officer corps in the Iranian Revolution.

According to the retired munitions executive, when he resigned as head of the planned Wackenhut-Cabazon munitions company because of a growing uneasiness about the legitimacy of the "national security" umbrella claimed by Wackenhut, Van Dewerker succeeded him.

We infer from this fact that Van Dewerker may have had a background in munitions R&D and that he may have served in the CIA's Science and Technology component as a research project director for an air-fueled device research program before moving to Orange County, California, to provide closer support for this research project in the California desert. If this inference is correct, Van Dewerker would have functioned almost as a CIA "handler" for Riconosciuto and presumably would have at some point learned about Riconosciuto's intelligence mission to Iran in 1980. This could account for Riconosciuto's claim to us that John Van Dewerker knows the whole story of the 1980 mission to Iran.

According to Riconosciuto, Glenn Feldman, who practiced law with former U.S. Senator James Abcurezk, also knows the whole story of the 1980 mission to Iran. According to the retired munitions executive, Feldman is an Indian rights legal specialist who represented both the Cabazon Indian Tribe and John Paul Nichols, and who did the legal work that led to the certification of the sovereign immunity of the Cabazon Indians. We infer that Wackenhut and the CIA were the real interested parties in obtaining the sovereign immunity certification as cover for their projects on the reservations, and that Feldman might have become familiar with the mission to Iran and the other activities on the reservation as a result of his legal work for the tribe and for John Paul Nichols.

Riconosciuto told us that former U.S. Senator James Abourezk also knows the whole story. According to the retired munitions executive, Riconosciuto frequently met with Abourezk and Feldman, and Abourezk may have represented either Wackenhut or Saudi Arabia or both. According to this same source, Wackenhut has extensive contract business in Saudi Arabia. According to an August 8, 1980 letter to James Abourezk from the Royal Embassy of Saudi Arabia in Washington, Abourezk had made a written request to Saudi Arabia and obtained confirmation that neither Wackenhut International nor the Cabazon Indians Trading Company was on "our black list for companies." According to Riconosciuto's interview with the co-authors Pizzo and Fricker in December 1987, Saudi Arabia always used Wackenhut to obtain any technical assistance it needed.

Riconosciuto told us that the PROMIS-related payoff to Earl Brian is "chiseled in stone" in documents that he saw in the legal offices shared by Abourezk and Feldman. If Abourezk represented Wackenhut, and Wackenhut intended to participate in the PROMIS-related payoff to Brian, this would explain the existence of such documents.

Riconosciuto told us that Donald Wager, who had represented him at one point and who Riconosciuto said was responsible for keeping Michael Reagan from embarrassing President and Mrs. Reagan, handled correspondence reflecting the PROMIS-related payoff to Brian.

From various documents and interviews, we have learned that Wager substituted for Harlan Braun in representing Riconosciuto in negotiations with Los Angeles U.S. Attorney Steve Trott in 1982 about becoming a "cooperative witness" against organized criminal activities in money laundering, gun running, and drug trafficking. Riconosciuto's objective presumably was to extinguish his personal criminal liability in exchange for providing evidence against others. As noted earlier, Wackenhut's top executives had strongly advocated this step to Riconosciuto. We infer that Wackenhut's objective, at least in part, was to "clean up" Riconosciuto to make it easier to use him on selling additional classified, high-tech R&D projects to the federal government. In order to maximize the interests of his client, Riconosciuto, in the negotiations with U.S. Attorney Steve Trott, Wager may well have sought and obtained some kind of written documentation about the alleged Brian and Riconosciuto strategic contribution to the election of Ronald Reagan. This could explain Riconosciuto's claim that Wager had handled correspondence that reflected the PROMIS-related payoff to Erian.

According to Riconosciuto, he also met with U.S. Attorney Steve Trott to seek his help in avoiding a trip to Israel for a debriefing on certain technology that Riconosciuto claimed should not have been shared with the Israelis. Riconosciuto told us that Trott "looked the other way," and did not offer any help. Riconosciuto told us that he, therefore, went to Israel and that,upon his return, the Israeli Government "drop shipped" a Cray super-computer to Riconosciuto with five years pre-paid maintenance.

We infer that the Israelis arranged for Riconosciuto to brief them on the "600 megawatt, transversally excited, chemical, gaseous, dynamic laser" that he claimed to have developed by 1981, and that Trott "looked the other way" possibly because the Reagan Administration was indebted to the Israelis for their secret contribution to the 1980 mission to Iran and, thereby, to the election of Ronald Reagan as President of the United States.

Riconosciuto told us that he has a copy of the "VAX/VMS version of the PROMIS source code"; and that one of two software companies in which he claims to have a financial interest. TCS Software of Houston or Park Software of Washington State, was hired by Wackenhut Corporation to integrate this version of PROMIS with a report generation software product manufactured and marketed to government agencies for the VAX computer under the VMS operating system.

INSLAW delivered a VAX/VMS version of the PROMIS source code to the Department of Justice in April or May 1983, but actually installed PROMIS on a different brand computer in the U.S. Attorneys' Offices: each of the 42 largest U.S. Attorneys' Offices operates PROMIS on PRIME computers under the PRIMOS operating system. Department of Justice officials testified under oath in the INSLAW litigation that the VAX/VMS version of PROMIS was never taken out of the box in which INSLAW delivered it to the Justice Department.

Riconosciuto could not have learned of the existence of the VAX/VMS version of PROMIS through press accounts of the INSLAW case. Riconosciuto seemed surprised and mystified when we explained that the U.S. Attorneys had installed PROMIS on PRIME computers rather than on VAX computers made by Digital Equipment Corporation, operating under the VMS operating system.

We infer that Wackenhut Corporation hired one of Riconosciuto's software companies to integrate PROMIS with its report generation software product for the VAX computer for government customers of Wackenhut other than the U.S. Attorneys' Offices. Wackenhut has contracts with the

Justice Department's Immigration and Naturalization Service and with other federal departments such as the Department of Energy. The Department of Energy, by itself, accounts for 20% of Wackenhut's corporate revenues. Perhaps the piracy of the PROMIS software by and on behalf of the United States Government has been far more widespread than what the U.S. Department of Justice has thus far admitted in court.

Riconosciuto told us that he had heard that Wackenhut and Brian had submitted an unsolicited bid to install PROMIS throughout the federal government, and that a Wackenhut annual report during the early 1980's made a reference to "tracking software for law enforcement administration," and that that reference was really to INSLAW's PROMIS software.

Based on information documented in INSLAW's Mandamus lawsuit, we infer that Ronald Reagan's alleged decision to provide a financial reward to Earl Brian for his alleged intelligence contribution to the 1980 election victory was implemented by Edwin Meese in The White House and D. Lowell Jensen in the U.S. Department of Justice.

Shortly after the inauguration and no later than May 4 or 5, 1981, the Reagan White House decided to launch a massive sweetheart contract at the U.S. Department of Justice to install a uniform case management software package on new computers in every investigative and litigative office of the Justice Department nationwide. The project was engineered in The White House by Edwin Meese, and spearheaded within the Justice Department by D. Lowell Jensen, beginning with Jensen's tenure as Assistant Attorney General for the Criminal Division. The software for the project was to be the PROMIS legal case management software manufactured by INSLAW, according to statements made by Meese in The White House on May 4 or 5 1981 to Donald Santarelli, a Presidential appointee in the Nixon Justice Department.

The project was officially chartered by D. Lowell Jensen on December 9, 1985 as the Uniform Office Automation and Case Management Project. The project is better known under the code name of Project EAGLE. The planning for EAGLE began in 1981 with the creation of the Justice Department Task Force on Automated Legal Support Systems. D. Lowell Jensen, then Assistant Attorney General for the Criminal Division, and Glen L. Archer, Jr., then Assistant Attorney General for the Tax Division, were the two Presidential appointees on the Task Force, which was chaired by Associate Deputy Attorney General Stan Morris. When the Justice Department initially released the Project EAGLE Request for Proposals in May of 1986, the procurement was focused only on the Criminal and Tax Divisions. In the Task Force's Final Report of January 27, 1983, Jensen identified as the number one problem "the need for interagency tracking of cases...."

By separate Memorandum, dated April 10, 1990, we have summarized the highlights of this plan to acquire the PROMIS software "through trickery, fraud and deceit" for use in Project EAGLE. The plan began in early 1981 with steps to facilitate the future sabotage of INSLAW's PROMIS-based business relationship with the Justice Department and has continued through both terms of President Reagan and into the current Thornburgh Justice Department under President Bush.

INSLAW, Inc.

1125 15th St., N.W. Suite 300 Washington, D.C. 20005
(202) 828-8600 FAX (202) 659-0755

William A. Hamilton, President

PROVIDED ON A BACKGROUND BASIS ONLY

MEMORANDUM

DATE: August 15, 1990

BD IW IPR-10

TO: The Record

FROM: NBH WAH Nancy B. and William A. Hamilton

RE: ***Information Previously Available in the INSLAW Case Is Not Inconsistent with the May 1990 Claim by an Informant That the DOJ Misconduct Against INSLAW Stems From a Decision by Ronald Reagan to Provide a Payoff to Earl Brian for an Intelligence Contribution to the 1980 Election Victory.***

In weighing the plausibility of the May 1990 claim by an informant that INSLAW's problems at DOJ stem from a decision by Ronald Reagan to provide a financial reward to Earl Brian for an intelligence contribution to the 1980 election victory, it is useful to review previously developed information in the INSLAW case. The intelligence contribution alleged by the informant: a mission by Brian to Iran in 1980 to bribe certain elements in Iran to delay the release of American hostages until after the November 1980 election.

Most of this memorandum summarizes examples of the disproportionate use of power, including very serious criminal acts, by DOJ over a period of years in its fight against INSLAW. This no-holds-barred effort by the government begins to make sense in the context of an effort to provide a financial payoff to people who are viewed as having made an extraordinary contribution to Ronald Reagan's winning of the Presidency.

Before reciting these examples, however, we wish to focus attention on the statements made two years earlier, in May 1988, by Ronald LeGrand, then Chief Investigator of the Senate Judiciary Committee, and attributed by LeGrand to a confidential informant whom LeGrand described as a highly trusted senior DOJ career official with a title, who was employed at DOJ when the Watergate scandal took place.

LeGrand contacted us in May 1988, just days after DOJ had issued a press release announcing that the Criminal Division had cleared Attorney General Edwin Meese of any wrongdoing against INSLAW relating to written allegations that we had submitted to the Criminal Division's Public Integrity Section in February 1988. The gist of our allegations was that the DOJ malfeasance against INSLAW, by then

[illegible] 22031 PHONE 703-278-9213

already found by the U.S. Bankruptcy Court, was part of a larger criminal conspiracy whereby Edwin Meese and D. Lowell Jensen sought to provide a massive sweetheart contract to Earl Brian to install INSLAW's PROMIS software on new computers in every DOJ office nationwide.

According to LeGrand, his informant asked that LeGrand tell us the following:

- Our hypothesis about the larger procurement fraud is correct as far as it goes but "INSLAW does not know squat about how dirty the INSLAW matter really is."

- The INSLAW matter is a "lot dirtier than Watergate ..."

- If the Hamiltons "ever learn half of what happened, they will be sickened."

- The Department of Justice "has been compromised at every level by the INSLAW case."

The first indication that INSLAW had of Reagan Administration plans to use the PROMIS software for a massive contract at DOJ came a few months after the 1980 election at a meeting in The White House between Edwin Meese, then Counsellor to the President, and Donald Santarelli, a Presidential appointee in the Nixon Justice Department and, later, an attorney for INSLAW. The meeting took place on May 4 or 5, 1981.

Immediately after the meeting, Santarelli telephoned William Hamilton to report that Meese had disclosed a decision by the Reagan Administration to launch a massive procurement at DOJ to install the PROMIS software on new computers in all 94 U.S. Attorneys' Offices, the seven legal divisions, the Drug Enforcement Administration, the U.S. Marshals Service, the Immigration and Naturalization Service, and the Bureau of Prisons. Meese told Santarelli that the Reagan Administration also hoped to include the Federal Bureau of Investigation, if the FBI could be persuaded to participate.

According to Santarelli, Meese stated that Santarelli's friends at INSLAW should not expect automatically to receive the contract because it would have to be a competitive procurement.

When William Hamilton responded to Santarelli that he expected that a procurement of the magnitude described by Meese would have to be awarded on the basis of competition, Santarelli advised Hamilton that Meese may have had something else in mind. Santarelli suggested that Meese may have been alluding to Reagan Administration plans to use this planned massive government contract to

reward major supporters of the President in the just-completed election.

The following is a list of examples of actions that we believe indicate a disproportionate use of power by DOJ against INSLAW, continuing over a period of years. We believe that this extensive list of DOJ's flagrant abuse of power almost requires an extraordinary motivation of the kind alleged by the informant:

- Ousting both the incumbent PROMIS Contracting Officer Betty Thomas and the incumbent PROMIS Project Manager Patrick Goodrich in 1981 and replacing them with persons specifically recruited for the PROMIS assignments from outside DOJ: Peter Videnieks from the Customs Service where he was then serving as Contracting Officer for at least two contracts with companies controlled by Earl Brian; and C. Madison Brewer, who had been fired from INSLAW several years earlier.

- Jensen's unsuccessful effort in 1981 to scuttle a planned DOJ procurement, that had been planned during the Carter Administration, for installing PROMIS in the 20 largest U.S. Attorneys' Offices.

- The DOJ plan, disclosed by Lawrence McWhorter to Frank Mallgrave in May or June 1981, to sabotage INSLAW's business relationship with DOJ after DOJ realized that the 20-city PROMIS procurement would be going forward, and that INSLAW would probably win the competitive procurement.

- Withholding payments for services under INSLAW's 1982-1985 PROMIS Implementation Contract even though the Contract Disputes Act is predicated on the assumption that the contractor may not stop work when a dispute arises and that the government may not use unadjudicated disputes as justification for withholding payments.

- The covert government operation in 1985 to force INSLAW's liquidation.

- The apparent enlistment of AT&T, one of the largest corporations in the United States, as an accomplice in the covert operation in 1985 to liquidate INSLAW; and the indications that the collusion between DOJ and AT&T involved a then-future Deputy Attorney General of the

United States, Arnold Burns, and the highest ranking legal officer of AT&T, Howard Trienens, then Vice President and General Counsel of AT&T.

- o The DOJ effort in 1987 to fire employees whom it apparently suspected were INSLAW's informants about the 1985 covert operation: Frank Mallgrave, then Assistant Director of the Executive Office for U.S. Attorneys, and Anthony Pasciuto, then Assistant Director of the Executive Office for U.S. Trustees.

- o The apparent suborning of perjury on the part of U.S. Bankruptcy Judge Cornelius Blackshear (former U.S. Trustee for the Southern District of new York) and Vincent Abrunzo, former Assistant U.S. Trustee for the Southern District of New York, as a means of damage control relating to disclosures about the 1985 covert operation.

- o The effort to use the Internal Revenue Service to demoralize INSLAW's officers immediately after the Company's filing for Chapter 11 protection on February 7, 1985 by sending revenue agents to see each INSLAW officer, and threatening immediate assessment and collection efforts against each of these officers for the Company's unpaid taxes.

- o The bad faith DOJ negotiations in 1985 to settle the contract disputes, and the obvious effort to string out these negotiations long enough to permit the covert government operation to succeed.

- o The DOJ encouragement of a hostile takeover bid for INSLAW by Systems and Computer Technology Inc., after the 1985 covert operation failed.

- o The apparent DOJ effort to interfere with INSLAW's representation by counsel in the fall of 1986, after the hostile takeover bid failed.

- o The overt effort by the Internal Revenue Service to force INSLAW's liquidation in 1987, coming on the heels of the Bankruptcy Judge's denunciation of the government for its covert effort to liquidate INSLAW in 1985.

- The highly unusual failure of the U.S. Court of Appeals for the District of Columbia to reappoint U.S. Bankruptcy Court Judge George F. Bason, Jr., several months after Judge Bason made his oral rulings against DOJ.

- The renewed effort by IRS to come after the Hamiltons for the Company's unpaid taxes on the heels of the trial against DOJ in Bankruptcy Court in 1987.

- The Thornburgh Justice Department's stonewalling of both the Senate Permanent Investigations Subcommittee and House Judiciary Committee investigations in 1988 and 1989, respectively.

- The Thornburgh Justice Department's award of Project EAGLE to the highest bidder in June 1989, and the subsequent payment of about $2 million to the three unsuccessful finalists to settle their bid protest before the GSBCA (General Services Administration Board of Contract Appeals) and secure their silence.

- The Thornburgh Justice Department's determination to spend any amount of money to inflict pain on INSLAW in 1989 through the eighth government audit of INSLAW's costs under the 1982-1985 contract.

- The aborted effort of the Thornburgh Justice Department in 1990 to recreate the PROMIS software for the Project EAGLE computers through the Request for Proposals from DOJ's Land and Natural Resources Division, in violation of the permanent injunction of the Bankruptcy Court, and of INSLAW's proprietary rights.

RCB COMMUNICATIONS

BD|IN|PR-11

TISOFT INC. OF FAIRFAX AWARDED $76 MILLION CONTRACT
FOR JUSTICE DEPARTMENT'S PROJECT EAGLE; AMOUNT COULD GROW

FAIRFAX, VA---June 23--- TISOFT, Inc. of Fairfax, VA, a systems integrator, has been awarded a competitive $76 Million contract to supply office automation systems to the Department of Justice, President John A. Oakes announced Wednesday.

According to Oakes, TISOFT will supply hardware, software, maintenance and training for the Department that will link a network of 12,000 Department of Justice workstations around the country. The project, he said, will provide word processing and office services for Justice's Project Eagle (Enhanced Automation for the Government Legal Environment).

"Although the present value award amount is $76 Million," said Oakes, "we are very optimistic that the actual amount of expenditures will be much greater." Because the Eagle system can accept Government-owned personal computers as terminals, the total number of Eagle users may be higher than 12,000.

Oakes said this award follows the Automated Management Information Civil Users System (AMICUS) contract, awarded to TISOFT by Justice in 1986, that provided networked services to over 2,000 employees in the Department's Civil Division.

"We are very pleased to have been selected to assist the Department in the achievement of its Project Eagle mission

-more-

9530 BLAKE LANE, FAIRFAX, VIRGINIA 22031 PHONE 703-278-9213

goals," said Oakes, "and we look forward to the challenges presented by a program of this magnitude."

The eight-year contract, Oakes said, begins with installations beginning over the next 90-120 days and will focus on word processing, file transfer and data base management for Justice's Tax and Criminal Divisions and the 94 U.S. Attorney's Offices in the United States, Puerto Rico and the Virgin Islands.

Oakes described TISOFT as a high technology company that is "proud of our ability to innovate." "Our strengths as a systems integrator allow us to visualize and, when appropriate, to engineer elegant, technically superior solutions," he noted.

Other significant contracts awarded to TISOFT have included automation efforts for the Department of Labor, the Veterans Administration and the Pension Benefit Guaranty Corporation. TISOFT also markets its automation products to certain professional groups, including private law firms.

- o -

CONTACT: John A. Oakes, President
TISOFT, Inc.
Two Flint Hill Office Park
10521 Rosehaven Street, Suite 300
Fairfax, VA 22030
(703)385-2950

EDITOR NOTE: Please disregard the prior news release on this subject. This new release has been approved by the Department of Justice.